



For a thriving New England

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May 17, 2016

VIA Registered Mail and Certified Mail, Return Receipt Requested

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RE: Notice of Violations and Intent to File Suit under the Resource Conservation and Recovery Act and Clean Water Act

To Whom it May Concern:

This letter constitutes a Notice by Conservation Law Foundation, Inc. (“CLF”)¹ to ExxonMobil Oil Corporation (together with ExxonMobil Pipeline Company, hereinafter, “ExxonMobil” or “You”) under Section 7002(b)(2)(A) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as further amended by the Hazardous and Solid Waste Amendments of 1984 (“RCRA”), 42 U.S.C. § 6972(b)(2)(A). Please be advised that unless, within ninety (90) days following your receipt of this Notice, You adequately resolve the conditions at the marine distribution terminal in Everett, Massachusetts (the “Everett Terminal”) operated by You, which may present an imminent and substantial endangerment to health or the environment, CLF intends to file a Complaint in the United States District Court of the District of Massachusetts to assert claims against You and any other entities that may have contributed to the conditions at the Everett Terminal, seeking declaratory and injunctive relief pursuant to RCRA Section 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B), civil penalties, and CLF’s reasonable litigation costs, including attorneys and expert witness fees and costs. Pursuant to RCRA Section 7002(b)(2)(A), 42 U.S.C. § 6972(b)(2)(A), such action will not be filed earlier than ninety days from the date of this Notice.

CLF also gives notice to the addressed persons of its intent to file suit pursuant to Section 505 of the Federal Water Pollution Control Act (“Clean Water Act,” “CWA,” or “Act”), 33 U.S.C. § 1365(a), for violations of the Act specified below. This letter constitutes notice pursuant to 40 CFR, part 135 and 40 CFR 254 to the addressed persons of CLF’s intention to file suit in the United States District Court of the District of Massachusetts seeking appropriate equitable relief, civil penalties, and other relief no earlier than 60 days from the postmark date of this Notice letter.

1. RCRA Violations

ExxonMobil, acting through officers, managers, subsidiary companies, and instrumentalities, owns or has owned or operates or has operated all or portions of the Everett Terminal, which

¹ CLF is a not-for-profit 501(c)(3) organization dedicated to the conservation and protection of New England’s environment.

consists of a “tank farm,” three berths, buildings and infrastructure located at 52 Beacham Street in Everett, in the Commonwealth of Massachusetts, at the confluence of the Island End River with the Mystic River. You are a Large Quantity Generator of hazardous waste at the Everett Terminal, and, as more fully described below, You have contributed and are contributing to the past or present handling, storage, treatment, transportation, or disposal of solid and hazardous wastes which may present an imminent and substantial endangerment to health or the environment in violation of RCRA.

CLF hereby asserts that You have contributed to the past or present handling, storage, treatment, transportation, or disposal of Hazardous Waste, as that term is defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), and Solid Waste, as that term is defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), at the Everett Terminal, which may present an imminent and substantial endangerment to health or the environment. Based on the information currently available to CLF, the toxic and hazardous wastes and pollutants listed below, many of which are highly carcinogenic, are present at the Everett Terminal:

2,4-Dimethylphenol	Benzene	Chrysene	Indeno[1,2,3cd]pyrene	SGT-HEM (Oil and Grease)
3&4 Methylphenol (Cresol)	Benzo[a]pyrene	Cyanide	Iron	Toluene
Acetone	Benzo[b]fluoranthene	Dibenzo[a,h]anthracene	Lead	Xylenes [m,p,o]
Antimony	Benzo[k]fluoranthene	Di-n-butyl phalate	Mercury	Petroleum Hydrocarbons
Arsenic	Cadmium	Ethylene	Naphthalene	Phenols
Benz(a)anthracene	Chromium	Fluoranthene	Nickel	Zinc
Methyl Tertiary-Butyl Ether (MTBE)	Tert-Butyl Alcohol (TBA)	Phthalates/Phthalate esters	Coal Tar	Butyl benzyl phthalate
Acenaphthylene	Benzo(ghi)perylene	Tert-Butyl Alcohol	Acenaphthene	Phenanthrene
Fuel Oil	Anthracene	Total BTEX	Gasoline	



To the extent that other Hazardous and Solid Wastes are revealed to be present at the Everett Terminal (a fact that You are in a better position to know than CLF) You are put on notice that CLF intends to include these wastes in its proof of your RCRA violations. You routinely discharge many of these toxic and hazardous wastes into the Island End River and the Mystic River, and the soils and groundwater at the Everett Terminal are heavily contaminated from your past, present, and ongoing handling, storage, treatment, transportation, or disposal of Hazardous and Solid Waste.

The Hazardous and Solid Waste at your Everett Terminal is generated, handled, stored, treated, transported and disposed of at or near sea level in close proximity to major human population centers, Chelsea Creek, the Island End River, and the Mystic River, which flows through the communities of Everett, Somerville, Chelsea, and Boston on its way to Boston Harbor. The first significant storm surge that makes landfall at the Everett Terminal at or near high tide is going to further flush your Hazardous and Solid Waste into the Island End and Mystic Rivers and through those communities, and a significant rise in sea level will put the majority of the Everett Terminal, including soils, groundwater, and treatment works, under water. You know all this, and yet have not taken appropriate steps to protect the public and the environment from this certain risk.

Nor have You disclosed your creation of this immanent and substantial risk to the United States Environmental Protection Agency ("EPA"), state regulators, or the public. On the contrary, You have actively obfuscated, denied, and attempted to conceal these risks from federal and state regulators and the public. Your obfuscation and denial is not and has not been limited to the imminent and substantial endangerment to health or the environment You have created at the Everett Terminal; You have also engaged in a decades-long scheme to conceal and sow doubt regarding the effects of climate change and your role, as the largest oil refiner on the planet, causing the anthropogenic climate change that is resulting in a greater frequency of storm surges and extreme weather events and rising sea levels. Your pattern of failing to disclose required information in your possession regarding these risks, and of acting to conceal these risks, may expose You to liability in this matter under legal theories other than the violations of RCRA discussed herein.

Your violations of RCRA are ongoing and continuous. CLF intends to seek a civil injunction, as provided under section 7002 of RCRA, ordering ExxonMobil to perform and pay for such work as may be required to respond to the Hazardous Waste and Solid Waste present at the Everett Terminal and restraining You from further violating RCRA. CLF also intends to seek civil penalties and an award of the costs of litigation, including attorney and expert witness fees, under section 7002 of RCRA.

2. Clean Water Act Violations

The ExxonMobil Everett Terminal is engaged in the receipt, storage, and distribution of petroleum products. The spectrum of fuels handled by this facility consists of gasoline, low sulfur diesel, jet fuel, heavy oil, and fuel additives. Petroleum products are received in bulk quantities at the Everett Terminal's marine vessel dock. Product is then transferred, via aboveground piping, to aboveground storage tanks located within the facility's tank farm areas. Final distribution of product is conducted at the facility's truck loading racks. The Everett Terminal operations also include the collection and discharge of stormwater from Sprague Energy, an asphalt storage and distribution facility located on property formerly owned by ExxonMobil.

ExxonMobil has operated the Everett Terminal pursuant to an individual permit issued by EPA under to the Clean Water Act National Pollutant Discharge Elimination System (NPDES) 33 U.S.C. § 1342 *et seq.* ExxonMobil currently operates subject to NPDES Permit No. MA0000833 issued in 2008 (the "Permit"). Among other requirements, NPDES Permit No. MA0000833 states that "The permittee shall develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce, or prevent, the discharge of pollutants in stormwater to the receiving waters identified in this permit. The SWPPP shall be a written document and consistent with the terms of this permit. The permittee shall comply with the terms of its SWPPP."

ExxonMobil's application for coverage under NPDES permits, including the currently applicable NPDES Permit, failed to include information documenting climate change induced factors known to ExxonMobil such as increased precipitation, increased magnitude and frequency of storm events, and increased frequency and magnitude of storm surges. By failing to address sea level rise, increased precipitation, and increased magnitude and frequency of storm events and storm surges, ExxonMobil has not developed and is not implementing a SWPPP designed to prevent the discharge of pollutants in stormwater to the receiving waters as identified in and required by the Permit.

The receiving water identified in ExxonMobil's NPDES Permit for the Everett Terminal is the Island End River (Boston Harbor/Mystic River Watershed/Segment MA71-03), a small tributary to the Mystic River. The entire Island End River is less than one-half mile long, and about 500 feet across at its widest point. The Island End River flows into the Mystic River, approximately half a mile west of the Mystic River's end in Boston Harbor. The Island End River is designated as a Class SB water body by the Commonwealth of Massachusetts.

The half-moon shaped pond within the Everett Terminal property that is incorporated into the facility's stormwater treatment system has existed since time immemorial and was a part of the Island End River until ExxonMobil (or its predecessors in interest) impounded it by filling in the surface water connection between the half-moon shaped pond and the Island End River sometime during the 1900's. A man-made structure cannot eliminate the Clean Water Act's jurisdiction over a water of the United States. The half-moon shaped pond is connected to the Island End River via surface water flows, subsurface hydrological connections, and/or man-made conduits. The half-moon shaped pond, the Island End River, and the Mystic River are all "waters of the United States" as defined in 40 C.F.R. § 122.2, and, therefore, "navigable waters" as defined in 33 U.S.C. § 1362(7).

The Massachusetts Department of Environmental Protection (MassDEP) evaluated and developed a comprehensive list of the assessed waters and the most recent list was published in the Massachusetts Year 2012 Integrated List of Waters (MassDEP, April 2012). The list identifies the lower reach of the Mystic River (Segment ID No. MA71-03, which includes the Island End River) as one of the waterways within Massachusetts that is impaired. The impairment, as identified by the MassDEP, is related to the presence of the following pollutants, which were not considered to be present due to natural causes: Ammonia, Un-ionized; Dissolved Oxygen; Foam/Flocs/Scum/Oil Slicks; Petroleum Hydrocarbons; Toxics; Taste and Odor, Fecal Coliform, and PCBs.

Unlawful Certification of SWPPP

NPDES Permit No. MA0000833 requires that: "The SWPPP shall be completed or updated and signed by the Permittee within 90 days after the effective date of this Permit. The Permittee shall certify that the SWPPP has been completed or updated and that it meets the requirements of the permit. The certification shall be signed in accordance with the requirements identified in 40 CFR § 122.22." Part I.B.2. 40 CFR § 122.22 required ExxonMobil to submit the following certification to comply with 122.22 "(d) *Certification*. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification: **I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.**" (emphasis added)

ExxonMobil signed and submitted the certification required by 40 CFR § 122.22 at the time of submittal of (a) each of its NPDES permit applications, and (b) each SWPPP. ExxonMobil signed these certifications without (a) disclosing information in its possession and relied on by the company in its business decision-making, regarding climate changed induced factors such as sea level rise, increased precipitation, increased magnitude and frequency of storm events, and storm surge, and (b) developing and implementing a SWPPP based on information in its possession and relied on by the company in its business decision-making, regarding climate changed induced factors such as sea level rise, increased precipitation, increased magnitude and frequency of storm events, and storm surge. ExxonMobil also signed these certifications without developing and implementing a SPCC based on information in its possession and relied on by the company in its business decision-making, regarding climate changed induced factors such as sea level rise, increased precipitation, increased magnitude and frequency of storm events, and storm surge.

Failure to Prepare SWPPP in Accordance with Good Engineering Practices

NPDES Permit No. MA0000833 requires that: “The SWPPP shall be prepared in accordance with good engineering practices.” ExxonMobil’s SWPPP for the Everett Terminal was not prepared in accordance with good engineering practices because the SWPPP was not based on information available to ExxonMobil and consistent with the duty of care applicable to engineers. The SWPPP was not prepared based on information regarding climate change-induced impacts known to reasonably prudent engineers and known to ExxonMobil.

Failure to Identify Sources of Pollution

NPDES Permit No. MA0000833 requires that: “The SWPPP shall . . . identify potential sources of pollution that may reasonably be expected to affect the quality of the stormwater discharges.” This Condition of the Permit uses the term “pollution” as opposed to the term “pollutant.” ExxonMobil has failed to identify sources of pollution resulting from climate change-induced sea level rise, storm surge, and increased magnitude and severity of storms as sources of pollution reasonably expected, and specifically anticipated by ExxonMobil, to affect the quality of the stormwater discharges from the Everett Terminal.

Failure to Describe and Implement Practices

The Permit requires that: “The SWPPP shall . . . describe and ensure implementation of practices which will be used to reduce the pollutants and assure compliance with this permit.” The SWPPP does not describe or ensure implementation of practices which will be used to address pollutant discharges resulting from climate change-induced effects that are known to ExxonMobil.

Failure to Identify Sources, Spill Areas, Drainage

The Permit requires that: “. . . the SWPPP shall contain the elements listed below: A summary of all pollutant sources which includes all areas where spills have occurred or could occur. For each source, identify the expected drainage and the corresponding pollutant.” The SWPPP does not address climate change-induced effects as pollutant sources, fails to identify where spills could occur and fails to identify drainage paths associated with storm surge and sea level rise, all of which are known to ExxonMobil.

Failure to Update SWPPP and SPCC

The Permit requires that: “. . . the SWPPP shall contain the elements listed below: A description of all stormwater controls, both structural and non-structural. BMPs must include . . . preventative maintenance programs, spill prevention and response procedures, runoff management practices, and proper handling of deicing materials. The SWPPP shall describe how the BMPs are appropriate for the facility. All BMPs shall be properly maintained and be in effective operating conditions.” The Permit incorporates spill prevention and response procedures as an enforceable BMP in the SWPPP.

A spill prevention and response procedure applicable to the Facility is the Spill Prevention, Control, and Countermeasures Plan required pursuant to 40 CFR § 112, Subpart A (“SPCC Plan”). This enforceable BMP requires establishment of “procedures, methods, equipment, and other requirements to prevent the discharge of oil from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act).” 40 CFR § 112.1(a)(1)(emphasis added).

The SPCC Plan must prevent discharges from the Everett Terminal because it is a facility, “*which due to its location*, could reasonably be expected to discharge oil in quantities that may be harmful, as described in part 110 of this chapter, into or upon the navigable waters of the United States or adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States(including resources under the Magnuson Fishery Conservation and Management Act)” 40 CFR § 112.1(b)(emphasis added).

Due to its location, the Everett Terminal is at risk of discharging oil due to climate change-induced sea level rise, storm surges, increased precipitation, and altered, severe, and/or extreme weather events.

The SPCC regulations highlight the applicability of the Plan as follows: “112.1(e): This part establishes requirements for the preparation and implementation of Spill Prevention, Control, and Countermeasure (SPCC) Plans. SPCC Plans are designed to complement existing laws, regulations, rules, standards, policies, and procedures pertaining to safety standards, fire prevention, and pollution prevention rules. The purpose of an SPCC Plan is to form a comprehensive Federal/State spill prevention program that minimizes the potential for discharges. The SPCC Plan must address all relevant spill prevention, control, and countermeasures necessary at the specific facility. Compliance with this part does not in any way relieve the owner or operator of an onshore or an offshore facility from compliance with other Federal, State, or local laws.”

The SPCC Regulations underscore that: “(d) Except as provided in §112.6, a licensed Professional Engineer must review and certify a Plan for it to be effective to satisfy the requirements of this part. (1) By means of this certification the Professional Engineer attests: (i) That he is familiar with the requirements of this part; (ii) That he or his agent has visited and examined the facility; (iii) That the Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards, and with the requirements of this part; (iv) That procedures for required inspections and testing have been established; and (v) That the Plan is adequate for the facility. (vi) That, if applicable, for a produced water container subject to §112.9(c)(6), any procedure to minimize the amount of free-phase oil is designed to reduce the accumulation of free-phase oil and the procedures and frequency for required inspections, maintenance and testing have been established and are described in the Plan. (2) Such certification shall in no way relieve the owner or operator of a facility of his duty to prepare and fully implement such Plan in accordance with the requirements of this part.” 40 CFR § 112.3(d)

The SPCC Plan for the Everett Terminal was not prepared in accordance with good engineering practices because it is not based on consideration of climate change information known to ExxonMobil, the petroleum industry in general, and to practicing engineers in Massachusetts, including climate change information regarding the certainty of increased sea level rise, storm surges, increased precipitation, and altered, severe, and/or extreme weather events.

Climate change-induced and affected factors such as sea level rise, storm surge, precipitation, and weather events (including severe and extreme weather events) can reasonably be expected to

cause or contribute to the discharge of oil in quantities that may be harmful to receiving waters in violation of the SPCC regulations, the SWPPP, and the Permit.

Due to ExxonMobil's failure to consider climate change information, including information known to ExxonMobil, the SPCC Plan fails to include necessary discharge prevention measures including procedures for routine handling of products.

Due to ExxonMobil's failure to consider climate change information, including information known to ExxonMobil, the SPCC Plan fails to include necessary and prudent discharge or drainage controls such as secondary containment around containers and other structures, equipment, and procedures for the control of a discharge.

Due to ExxonMobil's failure to consider or incorporate climate change information, including information known to ExxonMobil, the SPCC Plan fails to identify where experience indicates a reasonable potential for equipment failure (such as loading or unloading equipment, tank overflow, rupture, or leakage, or any other equipment known to be a source of a discharge),

Due to ExxonMobil's failure to consider climate change information, including information known to ExxonMobil, the SPCC Plan fails to include a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure.

Due to ExxonMobil's failure to consider climate change information, including information known to ExxonMobil, the SPCC Plan fails to provide appropriate containment and/or diversionary structures or equipment to prevent a discharge as described in 40 CFR §112.1(b).

Due to ExxonMobil's failure to consider climate change information, including information known to ExxonMobil, the SPCC Plan fails to assure that the entire containment system, including walls and floor, must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank, will not escape the containment system before cleanup occurs.

Due to ExxonMobil's failure to integrate climate change information, including information known to ExxonMobil, the SPCC Plan fails to address the typical failure mode associated with climate change-induced or affected factors, and the most likely quantity of oil that would be discharged.

Due to ExxonMobil's failure to consider climate change information, including information known to ExxonMobil, the SPCC Plan fails to include appropriately designed (i) Dikes, berms, or retaining walls sufficiently impervious to contain oil; (ii) Curbing or drip pans; (iii) Sumps and collection systems; (iv) Culverting, gutters, or other drainage systems; (v) Weirs, booms, or

other barriers; (vi) Spill diversion ponds; (vii) Retention ponds; or (viii) Sorbent materials. (2) For offshore facilities: (i) Curbing or drip pans; or (ii) Sumps and collection systems.

Failure to Amend SWPPP and SPCC Plan

NPDES Permit No. MA0000833 requires that: “The permittee shall amend and update the SWPPP within 30 days for any changes at the facility affecting the SWPPP. Changes which may affect the SWPPP include, but are not limited to, the following activities: a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States . . . Any amended or new versions of the SWPPP shall be re-certified by the Permittee. Such re-certifications also shall be signed in accordance with the requirements identified in 40 CFR § 122.22.”

ExxonMobil has not amended its SWPPP based on information regarding climate change known to ExxonMobil. ExxonMobil has not amended its SPCC Plan, to include an engineer’s certification based on information regarding climate change known to ExxonMobil. 40 CFR § 112.5.

The Permit requires that the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this Permit and with the requirements of stormwater pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the Permit. *See also* 40 CFR 122.41(e).

ExxonMobil has failed to properly operate and maintain the Everett Terminal to achieve compliance with the conditions of the Permit due to its failure to consider and act upon climate change related information, including information known to ExxonMobil.

The Permit requires that “The permittee shall take all reasonable steps to minimize or prevent any discharge which has a reasonable likelihood of adversely affecting human health or the environment.” *See also* 40 CFR 122.41(d). ExxonMobil has failed take all reasonable steps to minimize or prevent any discharge which has a reasonable likelihood of adversely affecting human health or the environment due to its failure to consider and act upon climate change related information, including information known to ExxonMobil.

By failing to submit information related to climate change-induced and affected factors in its permit application and in reports to the Environmental Protection Agency, ExxonMobil has submitted incorrect information in a permit application or reports to the Regional Administrator.

By failing to submit information related to climate change-induced and affected factors in its permit application and in reports to the Environmental Protection Agency, ExxonMobil has failed to promptly submit such relevant facts or information.

Discharges of Toxic and Hazardous Pollutants in Excess of Numeric Effluent Limits

ExxonMobil has grossly exceeded the numeric effluent limits set out in the Everett Terminal's individual NPDES Permit for a wide variety of toxic and hazardous pollutants for at least ten of the last twelve quarters.

As a result of ExxonMobil's industrial operations, the Everett Terminal Facility releases a variety of pollutants into the Island End River and Mystic River.

Dischargers of pollutants, including industrial wastewater, process water and stormwater associated with industrial activity, must comply with the requirements of a National Pollutant Discharge Elimination System ("NPDES") permit issued under Section 402 of the Clean Water Act, 33 U.S.C § 1342. Section 301(a) of the Clean Water Act prohibits discharges not authorized by, or in violation of, the terms of a valid NPDES discharge permit. NPDES discharge permits contain pollutant sampling and monitoring requirements and limits on the amount or concentration of allowable pollutants, in addition to requirements regarding control measures, best management practices, and recordkeeping and reporting.

The discharge of any pollutant in violation of a NPDES permit, the failure to conduct required monitoring for pollutant discharges, and the failure to comply with other requirements of a NPDES permit are all violations of the Clean Water Act, 33 U.S.C. § 1311(a); 33 U.S.C § 1342.

ExxonMobil has repeatedly discharged pollutants from the Facility into the Island End River and Mystic River, from and through point sources, in concentrations and amounts that exceed the numeric effluent limits set out in its NPDES Permit. Exhibit 1 hereto is a table of pollutant discharges self-reported by ExxonMobil as exceeding the numeric effluent limits set out in ExxonMobil's NPDES Permit from the Second Quarter of 2010 through the Second Quarter of 2015. If more recent quarters show additional violations of the permitted levels of pollutant discharges, CLF intends to include those violations in its suit.

As shown in Exhibit 1, ExxonMobil discharged pollutants in amounts exceeding the maximum allowable levels set by the numeric effluent limits in its NPDES permit more than seventy (70) times during the last five years (running from the Second Quarter of 2010 through the Second Quarter of 2015). Many of these discharges of hazardous pollutants exceeded the numeric limits by several thousand percent.



Every day in which ExxonMobil has failed and continues to fail to comply with the requirements of the Clean Water Act and NPDES Permit No. MA0000833 is a separate and distinct violation of ExxonMobil's NPDES Permit and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

The discharge of any pollutant in violation of a NPDES permit, the failure to conduct required monitoring for pollutant discharges, and the failure to comply with other requirements of a NPDES permit are all violations of the Clean Water Act, 33 U.S.C. § 1311(a); 33 U.S.C § 1342.

Additional information, including information in ExxonMobil's possession, may reveal additional violations. For example, this letter covers violations occurring after the date of the most recent publically available DMR data. In addition, this letter covers violations that continue or reoccur, or that can reasonably be expected to continue or reoccur, after the date of this letter. This letter covers ExxonMobil's failure to take corrective action to abate the numeric effluent limit violations and other permit schedule violations. CLF intends to sue for all violations, including those yet to be uncovered and those committed after the date of this notice letter. This notice letter covers all such violations to the full extent permitted by law.

These violations are ongoing and continuous, or capable of repetition, and barring a change at the Facility and full compliance with the permitting requirements of the Clean Water Act, these violations are likely to continue indefinitely. ExxonMobil is liable for the above-described violations occurring prior to the date of this letter, and for every day that these violations continue. Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§19.2, 19.4, each separate violation of the Act subjects ExxonMobil to a penalty up to \$32,500 per day for each violation that occurred between March 15, 2004 and January 12, 2009, and up to \$37,500 per day for each violation that occurred after January 12, 2009. CLF will seek the full penalties allowed by law.

In addition to civil penalties, CLF will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. CLF will seek an order from the Court requiring ExxonMobil to correct all identified violations through direct implementation of control measures and demonstration of full regulatory compliance.

Lastly, pursuant to Section 505(d) of the Act, 33 U.S.C. § 1365(d), CLF will seek recovery of costs and fees associated with matter.

CONCLUSION

During the notice period (90 days under RCRA; 60 days under the Clean Water Act), CLF is willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If You wish to pursue such discussions, please have Your attorney contact

CLF within the next 20 days so that negotiations may be completed before the end of the notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing at the conclusion of the notice period.

Sincerely,



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EXHIBIT 1

Effluent Violations of NPDES Permit through Second Quarter of 2015

Quarter	Date	Outfall	Parameter	Limit Type	Units	Permit Limit	Reported Discharge	Percentage in Exceedance
2015Q2	4/20/2015	01A	Acenaphthene	Max. Daily	µg/L	0.031	1.42	4481%
2015Q2	4/20/2015	01A	Fluoranthene	Max. Daily	µg/L	0.031	0.248	700%
2015Q2	4/20/2015	01A	Fluorene	Max. Daily	µg/L	0.031	1.53	4835%
2015Q2	4/20/2015	01A	Phenanthrene	Max. Daily	µg/L	0.031	0.297	858%
2015Q2	4/20/2015	01A	Pyrene	Max. Daily	µg/L	0.031	0.0691	123%
2015Q1	1/4/2015	01A	Fluoranthene	Max. Daily	µg/L	0.031	0.408	1216%
2014Q2	5/17/2014	01A	Total Suspended Solids	Max. Daily	Mg/L	100	127	27%
2014Q2	4/8/2014	01A	Fluorene	Max. Daily	µg/L	0.031	1.1	3448%
2014Q1	1/6/2014	01A	Benzo(b)fluoranthene	Max. Daily	µg/L	0.031	0.191	516%
2014Q1	1/6/2014	01A	Chrysene	Max. Daily	µg/L	0.031	0.179	477%
2014Q1	1/6/2014	01A	Fluoranthene	Max. Daily	µg/L	0.031	0.774	2397%
2014Q1	1/6/2014	01A	Fluorene	Max. Daily	µg/L	0.031	0.556	1694%
2014Q1	1/6/2014	01A	Pyrene	Max. Daily	µg/L	0.031	0.439	1316%
2014Q1	1/6/2014	01A	Phenanthrene	Max. Daily	µg/L	0.031	0.581	1774%
2013Q2	5/9/2013	01A	Fluoranthene	Max. Daily	µg/L	0.031	0.441	1323%
2013Q2	5/9/2013	01A	Pyrene	Max. Daily	µg/L	0.031	0.469	1413%
2013Q2	4/12/2013	01A	Chrysene	Max. Daily	µg/L	0.031	0.142	358%
2013Q2	4/12/2013	01A	Fluoranthene	Max. Daily	µg/L	0.031	0.368	1087%
2013Q2	4/12/2013	01A	Pyrene	Max. Daily	µg/L	0.031	0.384	1139%
2013Q1	3/12/2013	01A	Fluoranthene	Max. Daily	µg/L	0.031	0.23	642%
2013Q1	3/12/2013	01A	Fluorene	Max. Daily	µg/L	0.031	0.648	1990%
2011Q4	12/7/2011	001A	Benzo(a)pyrene	Max. Daily	µg/L	0.031	0.13	319%
2011Q4	12/7/2011	001A	Benzo(b)fluoranthene	Max. Daily	µg/L	0.031	0.152	390%
2011Q4	12/7/2011	001A	Chrysene	Max. Daily	µg/L	0.031	0.247	697%
2011Q4	12/7/2011	001A	Fluoranthene(2C)	Max. Daily	µg/L	0.031	0.311	903%
2011Q4	12/7/2011	001A	Pyrene	Max. Daily	µg/L	0.031	0.247	697%
2011Q4	11/10/2011	001A	Benzo(a)pyrene	Max. Daily	µg/L	0.031	0.183	490%
2011Q4	11/10/2011	001A	Benzo(g,h,i)perylene(2C)	Max. Daily	µg/L	0.031	0.211	581%
2011Q4	11/10/2011	001A	Chrysene	Max. Daily	µg/L	0.031	0.29	835%
2011Q4	11/10/2011	001A	Fluoranthene	Max. Daily	µg/L	0.031	0.726	2242%
2011Q4	11/10/2011	001A	Pyrene	Max. Daily	µg/L	0.031	0.797	2471%
2011Q3	9/6/2011	001A	Chrysene	Max. Daily	µg/L	0.031	1.52	4803%
2011Q3	9/6/2011	001A	Pyrene	Max. Daily	µg/L	0.031	0.664	2042%
2011Q3	8/2/2011	001A	Benzo(a)anthracene(2C)	Max. Daily	µg/L	0.031	0.279	800%
2011Q3	8/2/2011	001A	Chrysene	Max. Daily	µg/L	0.031	0.144	329%
2011Q3	8/2/2011	001A	Fluoranthene(2C)	Max. Daily	µg/L	0.031	1.48	4674%
2011Q3	8/2/2011	001A	Fluorene	Max. Daily	µg/L	0.031	1.04	3255%
2011Q3	8/2/2011	001A	Naphthalene(2C)	Max. Daily	µg/L	0.031	5.62	18029%

Quarter	Date	Outfall	Parameter	Limit Type	Units	Permit Limit	Reported Discharge	Percentage in Exceedance
2011Q3	8/2/2011	001A	Phenanthrene(2C)	Max. Daily	µg/L	0.031	7.12	22868%
Quarter	Date	Outfall	Parameter	Limit Type	Units	Permit Limit	Reported Discharge	Percentage in Exceedance
2011Q3	8/2/2011	001A	Pyrene	Max. Daily	µg/L	0.031	4.25	13610%
2011Q2	5/4/2011	001A	Chrysene	Max. Daily	µg/L	0.031	0.447	1342%
2011Q2	5/4/2011	001A	Pyrene	Max. Daily	µg/L	0.031	1.34	4223%
2011Q1	3/11/2011	001A	Fluoranthene	Max. Daily	µg/L	0.031	1.22	3836%
2011Q1	3/11/2011	001A	Phenanthrene(2C)	Max. Daily	µg/L	0.031	2.45	7803%
2011Q1	3/11/2011	001A	Pyrene	Max. Daily	µg/L	0.031	1.12	3513%
2011Q1	1/18/2011	001A	Pyrene	Max. Daily	µg/L	0.031	0.215	594%
2010Q3	9/8/2010	001A	Benzo(b)fluoranthene	Max. Daily	µg/L	0.031	0.177	471%
2010Q3	9/8/2010	001A	Chrysene	Max. Daily	µg/L	0.031	0.368	1087%
2010Q3	9/8/2010	001A	Fluoranthene	Max. Daily	µg/L	0.031	0.556	1694%
2010Q3	9/8/2010	001A	Pyrene	Max. Daily	µg/L	0.031	0.941	2935%
2010Q3	8/23/2010	001 A	Benzo(a)anthracene	Max. Daily	µg/L	0.031	0.202	552%
2010Q3	8/23/2010	001 A	Benzo(a)pyrene	Max. Daily	µg/L	0.031	0.135	335%
2010Q3	8/23/2010	001 A	Benzo(b)fluoranthene	Max. Daily	µg/L	0.031	0.144	365%
2010Q3	8/23/2010	001 A	Benzo(k)fluoranthene	Max. Daily	µg/L	0.031	0.115	271%
2010Q3	8/23/2010	001 A	Chrysene	Max. Daily	µg/L	0.031	0.192	519%
2010Q3	8/23/2010	001 A	Fluoranthene	Max. Daily	µg/L	0.031	0.385	1142%
2010Q3	8/23/2010	001 A	Pyrene	Max. Daily	µg/L	0.031	0.644	1977%
2010Q3	7/10/2010	001A	Total Suspended Solids	Max. Daily	mg/L	100	142	42%
2010Q3	7/10/2010	001A	Acenaphthylene	Max. Daily	µg/L	0.031	0.124	300%
2010Q3	7/10/2010	001A	Anthracene	Max. Daily	µg/L	0.031	0.229	639%
2010Q3	7/10/2010	001A	Benzo(a)anthracene	Max. Daily	µg/L	0.031	0.714	2203%
2010Q3	7/10/2010	001A	Benzo(a)pyrene	Max. Daily	µg/L	0.031	0.6	1836%
2010Q3	7/10/2010	001A	Benzo(b)fluoranthene	Max. Daily	µg/L	0.031	0.676	2081%
2010Q3	7/10/2010	001A	Benzo(g,h,i)perylene	Max. Daily	µg/L	0.031	0.419	1252%
2010Q3	7/10/2010	001A	Benzo(k)fluoranthene	Max. Daily	µg/L	0.031	0.438	1313%
2010Q3	7/10/2010	001A	Chrysene	Max. Daily	µg/L	0.031	0.914	2848%
2010Q3	7/10/2010	001A	Dibenz(a,h)anthracene	Max. Daily	µg/L	0.031	0.143	361%
2010Q3	7/10/2010	001A	Fluoranthene	Max. Daily	µg/L	0.031	1.25	3932%
2010Q3	7/10/2010	001A	Indeno(1,2,3-cd)pyrene	Max. Daily	µg/L	0.031	0.314	913%
2010Q3	7/10/2010	001A	Phenanthrene	Max. Daily	µg/L	0.031	0.6	1835%
2010Q3	7/10/2010	001A	Pyrene	Max. Daily	µg/L	0.031	2.16	6868%
2010Q3	7/10/2010	001A	Pyrene	Max. Daily	µg/L	0.031	0.17	448%