

EXHIBIT 10

Nick Campins

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Sent: Friday, October 09, 2009 4:51 PM
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Cc: New York - MTBE
Subject: proposed stipulated facts
Attachments: Stipulation to Undisputed ExxonMobil Facts.pdf

Bill --

As discussed with Bob, here is the proposed stipulation. I will email the phone number to call into tomorrow's deposition by tomorrow morning.

<<Stipulation to Undisputed ExxonMobil Facts.pdf>>

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether (“MTBE”)
Products Liability Litigation

This document pertains to:

City of New York v. Amerada Hess, et al.,
No. 04 Civ. 3417

Master File C.A. No. 1:00-1898

MDL 1358 (SAS)

M21-88

STIPULATION

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for plaintiffs, the City of New York, the New York City Water Board and the New York City Municipal Water Finance Authority (collectively “the City”) and defendants, Exxon Mobil Corporation, ExxonMobil Chemical Company, Inc., Exxon Corporation, and Mobil Corporation (collectively “Exxon”) that the facts listed below (“Stipulated Facts”) are true and that further proof is unnecessary. This Stipulation is not a waiver of objections as to relevance or materiality concerning the Stipulated Facts.

The City and Exxon waive all other objections to the following Stipulated Facts being introduced into evidence at trial.

STIPULATED FACTS

Where the term “ExxonMobil” is used in the following Stipulated Facts, the term shall refer to the combination of Exxon Corporation and Mobil Corporation for all time periods prior to their merger in 1999, and to ExxonMobil Corporation for all time periods after their merger in 1999.

1. For the period from 1985 to 2001, ExxonMobil (and prior to their merger in 1999, Exxon and Mobil combined) was the largest petroleum refiner (in terms of installed refining

capacity) in the United States. ExxonMobil was the second largest refiner (in terms of installed refining capacity) in the United States in 2002 and 2003.

2. The following table sets forth ExxonMobil's ranking among refiners in the United States from 1985 through 2003, including the number of barrels per day (KBPD) refined by ExxonMobil in the United States, and the percentage of national petroleum refining capacity attributable to ExxonMobil. It also sets forth the average refining capacity per day (1.921 million barrels per day) and percentage of national capacity (13 percent):

Profile of ExxonMobil Refining Capacity 1985-2003

ExxonMobil Refining Capacity			
	Ranking	KBPD	% of National
1985	1	1,955	13.2%
1986	1	1,899	12.6%
1987	1	1,924	12.7%
1988	1	2,004	13.3%
1989	1	1,985	13.1%
1990	1	1,985	13.1%
1991	1	1,995	13.2%
1992	1	2,080	13.8%
1993	1	1,893	12.6%
1994	1	1,921	12.4%
1996	1	1,969	12.7%
1997	1	2,005	15.6%
1998	1	1,825	13.5%
1999	1	1,913	13.8%
2000	1	1,772	12.5%
2001	1	1,796	12.2%
2002	2	1,808	12.1%
2003	2	1,844	11.7%
Averages		1,921	13.0%

3. The following table lists the refineries owned by ExxonMobil from 1985 to 1993:

ExxonMobil Refineries

Location	State
Benicia	CA
Torrance	CA
Joliet	IL
Baton Rouge	LA
Chalmette	LA
Billings	MT
Bayway	NJ
Paulsboro	NJ
Baytown	TX
Beaumont	TX

4. The refinery located in Bayway, New Jersey was sold in 1993. The refinery located in Paulsboro, New Jersey was sold in 1997. The Benicia, California refinery was acquired by Valero in 2000 after Exxon and Mobil merged. ExxonMobil continued to own the remaining 7 refineries through 2003.

5. The Benicia refinery produced RFG gasoline containing MTBE from the mid 1990s to 2000. The Torrance, California refinery produced RFG gasoline with MTBE from the mid 1990s to 2003.

6. Gasoline produced by the Torrance refinery was shipped to the following terminals owned and operated by ExxonMobil Corporation:

Atwood Terminal, Anaheim, CA – supplied gasoline stations in Orange County, San Bernardino County, North San Diego County and parts of Riverside County.

Southwestern Terminal, Terminal Island (Port of Los Angeles) – stored and transferred petroleum product brought in by tankers, barges and pipelines.

Vernon Terminal, Vernon, CA - supplied gasoline stations in Los Angeles, Ventura, Santa Barbara, San Luis Obispo, and parts of San Bernardino and Orange Counties.

Torrance Terminal, Torrance Refinery - supplied gasoline stations in parts of Los Angeles and Orange Counties.

9. Most of the fuel pipeline systems in northern and southern California are owned by Kinder Morgan (KM), a common carrier pipeline company. The Torrance, California refinery shipped product via Kinder Morgan pipeline, which includes one pipeline from Los

Angeles that runs south to San Diego and a pipeline running from Los Angeles southeast into Arizona. The Benicia, California refinery shipped product via Kinder Morgan's North Line, which consists of approximately 1,075 miles of pipeline in five segments originating in Richmond and Concord, California. The North Line served terminals located in Brisbane, Sacramento, Chico, Fresno and San Jose, California, and in Reno, Nevada.

10. ExxonMobil maintained an extensive network of fuel terminals throughout much of the United States during the 1980s, 1990s and to 2003.

11. Based on its retail sales, ExxonMobil was the number one retailer of gasoline in the United States during every year from 1985 to 2001. ExxonMobil was the number two retailer during 2002.

13. For each year from 1990 to 2002, the following table sets forth ExxonMobil's retail market share, including the number of ExxonMobil branded gasoline stations in the United States, the percentage of retail gasoline stations in the nation branded ExxonMobil, ExxonMobil's market share in billions of gallons, ExxonMobil's market share as a percentage of the United States market, and ExxonMobil's ranking among major brands:

ExxonMobil Retail Market Share – 1990-2002

	XOM Total Number of Branded Retail Outlets	XOM Stations as % of Total in United States	XOM Market Share Gasoline Billion Gallons	XOM Market Share, % of U.S. Market	Major Brand Outlet Ranking
1990	20,674	-	17.0	14.6%	1
1991	19,944	9.5%	18.1	16.8%	1
1992	18,577	9.2%	18.5	16.0%	1
1993	17,680	8.5%	19.0	16.1%	1
1994	16,405	8.1%	19.9	16.8%	1
1995	15,939	8.2%	21.4	18.3%	1
1996	15,989	8.4%	25.1	19.3%	1
1997	15,936	8.5%	23.2	18.5%	1
1998	15,913	8.7%	24.0	18.6%	1
1999	15,913	8.8%	24.7	18.7%	1
2000	16,080	9.1%	23.2	17.4%	1
2001	16,080	9.2%	18.3	17.5%	1
2002	16,000	9.4%	18.6	13.7%	2
Average	17,010	8.8%	20.8	17.1%	

Dated: New York, New York
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