



VIA CERTIFIED MAIL

January 20, 2004

ExxonMobil Corporation
c/o Corporation Service Company
80 State Street
Albany, NY 12207

ExxonMobil Corporation
5959 Las Colinas Boulevard
Irving, TX 75039

Mobil Corporation
400 Kingsland Avenue
Brooklyn, NY 11222

Mobil Corporation
c/o Prentice-Hall Corporation System, Inc.
80 State Street
Albany, NY 12207

Frank A. Risch
Mobil Corporation
5959 Las Colinas Boulevard
Irving, TX 75039

BP Amoco Corporation
c/o Prentice-Hall Corporation System, Inc.
80 State Street
Albany, NY 12207

R.J. Pillari
BP Corporation North America, Inc.
4101 Winfield Road
Warrenville, IL 60555

BP Products North America, Inc.
200 E. Randolph Drive
Chicago, IL 60601

BP Amoco
315 Norman Avenue
Brooklyn, NY 11222

Roux Associates, Inc.
c/o Lazer, Aptheker, Feldman, Rosella &
Yedid
225 Old Country Road
Melville, NY 11747

John T. Magliocco
Peerless Importers, Inc.
16 Bridgewater Street
Brooklyn, NY 11222

The "181 Lawrence Avenue Realty" Company
2 Meeker Avenue
Brooklyn, NY 11211

RE: Notice of Intent to Sue ExxonMobil Corporation, Mobil Oil Corporation, BP Amoco Corporation, BP Corporation North America, Inc., Roux Associates, Inc., Peerless Importers, Inc. and The 181 Lawrence Avenue Realty Company for Clean Water Act Violations in Greenpoint, New York.

Dear Sirs and Madams:

This letter constitutes Riverkeeper's and co-plaintiffs' NOTICE OF INTENT TO SUE the ExxonMobil Corporation, Mobil Corporation, BP Amoco Corporation, BP Corporation North America, Inc., Roux Associates, Inc., Peerless Importers, Inc./The 181 Lawrence Avenue Realty Company, and the above-referenced executives and officers (hereafter "oil companies, Roux, and Peerless") as present or past owners or operators of the following sites and facilities under 33 U.S.C. section 1365 for violations of the federal Clean Water Act ("CWA"): Mobil Storage Terminal, 400 Kingsland Avenue, Brooklyn 11222; BP Amoco Bulk Storage Facility, 315 Norman Avenue, Brooklyn, NY 11222; the former Mobil Oil Refinery located in the entire area east of Kingsland Avenue between Greenpoint Avenue south to Norman Avenue (presently the BP Amoco Bulk Storage Facility and identified as Borough 3 - Block 2612 - Lot 75); the Peerless Importers properties located north of Bridgewater Street and west of Meeker Avenue (presently owned and/or operated by Peerless Importers, Inc. and identified in part as the following three (3) lots: Borough - 3, Block - 2666, Lots - 125, 52 and 1, with addresses at 927 Meeker Avenue, Brooklyn NY 11222, 42 Bridgewater Street, Brooklyn, NY 11222, and 44 Bridgewater Street Brooklyn, NY 11222); and ExxonMobil's product recovery system located on and adjacent to the aforementioned sites and operated by Roux. Specifically, this letter gives notice of our intent to seek redress under the CWA for ongoing, unpermitted discharges of petroleum products into navigable waters, in violation of the CWA.

Riverkeeper, whose contact information is P.O. Box 130, Garrison, NY, (845) 424-4149, is a non-profit, environmental watchdog organization that protects and safeguards the ecological integrity of the Hudson River, its tributaries, and the New York City Drinking Water Supply Watershed. On behalf of our members, we routinely file citizen suits under the CWA and RCRA to prevent and remediate environmental pollution problems. Many of our members and constituents live near and routinely recreate in and on Newtown Creek. Co-plaintiff Teresa Toro, whose mailing address is 146 Java Street, Brooklyn, NY, 11222, is a neighbor of the aforementioned facilities, and a user and enjoyer of Newtown Creek. Co-plaintiff Rolf Carle, whose mailing address is 146 Java Street, Brooklyn, NY, 11222, is a neighbor of the aforementioned facilities, and a user and enjoyer of Newtown Creek. Co-plaintiff William Schuck, whose mailing address is 99 Commercial Street, Brooklyn, NY, 11222, lives on the shore of Newtown Creek and uses and enjoys its waters. Co-plaintiffs Michael and Laura Hoffman, whose mailing address is 127 Dupont Street, Brooklyn, NY, 11222-1145, are neighbors of the aforementioned facilities, and are users and enjoyers of Newtown Creek. Co-plaintiff Bernard Ente, whose mailing address is P.O. Box 780568, Maspeth, NY 11378, is a user and enjoyer of Newtown Creek. Co-plaintiff Deborah Masters, whose mailing address is 475 Kent Street, 7th Floor, Brooklyn, NY 11211, is a user and enjoyer of Newtown Creek.

Pursuant to the Clean Water Act citizen suit provision, 33 U.S.C. section 1365, we hereby place the oil companies, Roux, and Peerless on notice, that we intend to sue them for

violating, and continuing to violate, effluent standards and limitations as defined by CWA section 505(f) of the CWA, 33 U.S.C. section 1365(f), by discharging petroleum products into Newtown Creek without a permit required under CWA section 301(a), 33 U.S.C. section 1311(a). Public records at the New York State Department of Environmental Conservation ("DEC") reveal that ExxonMobil is responsible for an approximate 17 million gallon underground oil spill in Greenpoint, Brooklyn, under and adjacent to the aforementioned properties. These records indicate that BPAmoco may also be responsible in part for this spill. These records also indicate that ExxonMobil and its spill remediation contractor Roux own and operate the product recovery system on and adjacent to the aforementioned properties, including the boom containment system currently anchored to the Peerless properties bulkheads.

The CWA prohibits the discharge of pollutants from a point source into the waters of the United States except pursuant to and in compliance with a permit.¹ See 33 U.S.C. § 1311(a); 33 U.S.C. § 1342.

The CWA defines "pollutant" broadly to include "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water." See 33 U.S.C. § 1362(6). Petroleum products, specifically oil and gasoline, are held to be pollutants under the CWA. See United States v. Hamel, 551 F.2d 107, 111 (6th Cir. 1977) (finding that it is "apparently clear" that Congress intended to include discharged gasoline within the definition of pollutant in 33 U.S.C. § 1362(6)); United States v. Colonial Pipeline Co., Inc., 242 F. Supp. 2d 1365, 1368 (N.D. Ga. 2002) (holding that the "petroleum products transported in Defendant's pipeline are "pollutants" within the meaning of Section 502(6) of the CWA").

The CWA defines "point source" as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged." 33 U.S.C. § 1362(14).

The CWA defines "navigable waters" as "waters of the United States." See 33 U.S.C. § 1362(7). Waters of the United States includes all rivers, lakes, ponds, streams, and other surface waters connected to traditionally navigable waterways. See Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, 531 U.S. 159, 121 S.Ct. 675 (2001); United States v. Riverside Bayview Homes, Inc., 474 U.S. 121, 106 S.Ct. 455 (1985); see also Mutual Life Insurance Co. of New York, v. Mobil Corp., No. 96-CV-1781, 1998 U.S. Dist. LEXIS 4513, at * 4-8 (N.D.N.Y. March 31, 1998) (CWA covers groundwater when it is linked to navigable waters); Quivira Mining Co. v. EPA, 765 F.2d 126, 130 (10th Cir. 1985) (finding that the CWA does apply where intermittent creeks and underground aquifers flow into navigable waters).

¹ The State of New York was delegated authority by the Environmental Protection Agency to administer the National Pollution Discharge Elimination System ("NPDES") permit program pursuant to 33 U.S.C. section 1370. The State Pollution Discharge Elimination System ("SPDES") permit program is the functional equivalent of NPDES.

The oil companies, Roux, and Peerless are discharging petroleum products from a massive and contiguous 17 million gallon underground oil plume, through fissures in the sheet metal bulkheads located on the Peerless properties into Newtown Creek without a CWA permit. The massive plume itself acts as a point source—a single confined and discrete conveyance. The permeable sheet metal bulkhead located on the Peerless properties and possibly constructed by ExxonMobil and Roux, as well as fissures in the sheet metal bulkheads, also acts as confined and discrete conveyances. ExxonMobil and Roux operate containment booms in Newtown Creek, along Peerless' permeable bulkheads, in an attempt to catch the discharged petroleum product. Some of the product is caught in the boom and is then partially retrieved during a weekly skimming process. Some of the product also escapes the boom, traveling with the tide of Newtown Creek and its tributaries. Newtown Creek is a navigable and tidal waterway, its ebb and flow dependent on the East River, which, in turn, flows into to the Hudson River. The tidal nature of these interconnecting water bodies cause pollutants to travel quickly and for great distances, thereby causing grave environmental impacts. The oil companies, Roux, and Peerless have owned and operated their properties, bulkheads, and containment booms in such a manner as to discharge pollutants into these waters of the United States on a constant and continuing basis for at least the last 5 years, but in all likelihood since the 1950s when the oil companies' predecessors first caused a massive 17 million gallon petroleum spill at adjacent oil terminal site(s) on Newtown Creek in Greenpoint.

During each of the following patrols of Newtown Creek over the past year and a half, Riverkeeper observed heavy accumulations of petroleum product discharging from the Peerless bulkheads causing brown globs of petroleum product and rainbow colored sheens to be present on the surface of Newtown Creek, both inside and outside ExxonMobil's and Roux's boom system: October 25, 2002; December 11, 2002; May 5, 2003; May 12, 2003; June 9, 2003; August 11, 2003; August 12, 2003; August 27, 2003; September 10, 2003; September 22, 2003; October 17, 2003; October 30, 2003; November 13, 2003; and November 25, 2003. Notably, the boom at the Peerless property holds consistently heavy accumulations of product and frequently permits the product to flow into Newtown Creek, resulting in floating sheens which are visible upstream and downstream, depending on tides.

These petroleum sheens release a stench and toxins into the air, and endanger aquatic habitats and water quality. The petroleum product potentially includes, but is not limited to, the following constituents: benzene and benzo(a)pyrene; benz(a)anthracene; indeno(1,2,3-cd)pyrene; dibenz(a,h)anthracene; chrysene; benzo(b)fluoranthene; and benzo(k)fluoranthene; MTBE; and lead. These product constituents are known carcinogens that threaten the health of humans and aquatic life. Consequently, recreational users of Newtown Creek, the East River and the Hudson River risk exposure to carcinogens, particularly subsistence anglers fishing at the mouth of the Newtown Creek and around New York Harbor.

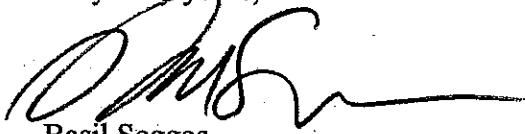
The discharges referenced above constitute ongoing violations of the CWA. Each day of unpermitted discharges comprises a series of separate violations of the CWA, with a discrete violation for each pollutant illegally discharged from each point source. The oil companies, Roux, and Peerless will remain in violation of the Act each day that the companies operate their properties, bulkheads, and/or boom systems without a CWA permit, and until such time as they cease all discharges of pollutants from these facilities into waters of the United States without a

permit. As noted in 33 U.S.C. section 1319(d) and 40 C.F.R. section 19.4, violators are subject to a civil penalty not to exceed \$27,500 (or \$31,500 for violations occurring after August 19, 2002) for each such violation. At the close of the 60-day notice period, we intend to file a citizen suit under section 505(a) of the Clean Water Act against the oil companies, Roux, and Peerless as owners and operators of the above-referenced properties, bulkheads, and/or containment booms for the violations discussed herein. We intend to seek penalties and injunctive relief for these violations of the CWA. This Notice of Intent to Sue covers all CWA violations by the parties during the five (5) years preceding the date of this letter and covers all future violations arising from its continued operations.

This Notice of Intent to Sue sufficiently states grounds for filing suit. During the 60-day CWA notice period, we will be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within ten (10) days of receiving this notice so that a meeting can be arranged and settlement negotiations may be completed before the end of the notice periods. At the close of the 60-day period, unless significant progress is made in remedying these violations, we intend to file a citizen suit against the oil companies, Roux, and Peerless under CWA section 505(a), 33 U.S.C. section 1365 (a). Pursuant to the CWA, we will seek penalties, attorney's fees and costs, as well as an injunction against continued environmental violations.

If you wish to discuss these matters further, please do not hesitate to contact the undersigned at (845)-424-4149 x 230. Karl Coplan of the Pace Environmental Litigation Clinic will be representing Riverkeeper and co-plaintiffs in this matter. He can be reached at (914)-422-4343.

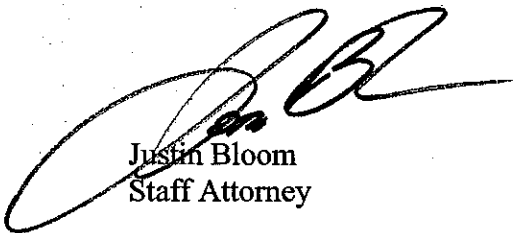
Very truly yours,



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