



U.S. Department of Justice

*United States Attorney
District of Delaware*

*Nemours Building
1007 Orange Street, Suite 700
P.O. Box 2046
Wilmington, Delaware 19899-2046*

*(302) 573-6277
FAX (302) 573-6220*

PRESS RELEASE –
FOR IMMEDIATE DISTRIBUTION
March 17, 2005

Edmond Falgowski
Assistant United States Attorney
(302) 573-6277

Press Release

**FEDERAL COURT SENTENCES MOTIVA ENTERPRISES TO \$10 MILLION
CRIMINAL FINE**

Motiva Pleads Guilty to Negligent Endangerment and Clean Water Act Violations

WASHINGTON, D.C. - Thomas L. Sansonetti, Assistant Attorney General for the Justice Department's Environment and Natural Resources Division, Thomas V. Skinner, Acting Assistant Administrator for Enforcement and Compliance Assurance at the Environmental Protection Agency, and Richard G. Andrews, First Assistant U.S. Attorney for the District of Delaware, announced today that Motiva Enterprises LLC pleaded guilty to negligently endangering workers at its former refinery in Delaware City, Delaware, discharging pollutants into the Delaware River and negligently releasing sulfuric acid into the air, both in violation of the Clean Air Act. Pursuant to a plea agreement, Chief U.S. District Judge Sue L. Robinson immediately sentenced Motiva to pay a fine of \$10 million and to serve a three-year term of probation.

Motiva, an oil refining and retail business owned by Shell Oil Company and Saudi Refining, Inc., refines and markets gasoline to approximately 9,400 Shell-branded and Texaco-branded gasoline stations. Together with Shell Oil Company, Motiva ranks as a leading refiner in the United States. They collectively account for about 10 percent of the total U.S. refining capacity and a market-leading 13 percent share of U.S. gasoline sales.

On July 17, 2001, Tank 393, a 415,000 gallon capacity tank at Motiva's Delaware City Refinery, exploded while containing spent sulfuric acid, which is a mixture of sulfuric acid, water, and hydrocarbons. The explosion killed one worker, Jeffrey Davis, and injured numerous others. Spent sulfuric acid from the tank farm spilled into the Delaware River, resulting in thousands of dead fish and crabs.

"Violations of our nation's environmental and worker safety laws often go hand in hand, and can exact a terrible human price," said Assistant Attorney General Sansonetti. "This prosecution puts those who would violate those laws on notice that the people of the United

States expect them to mend their ways and act now to care for the environment and their employees.”

“Motiva’s guilty plea is evidence of our commitment to prosecuting violators who damage the environment, and particularly to prosecuting violators who put their workers in harm’s way at the same time. This dangerous manner of ‘doing business’ is a crime and will not be tolerated,” said Acting Assistant Administrator Skinner.

Following the explosion, EPA criminal investigators gathered evidence which indicated that Tank 393 had a long history of problems. Among other things, Tank 393 had numerous localized corrosion and leaks during the previous eight years, including six leaks from June 1998 to May 2001. Company inspectors repeatedly recommended that Tank 393 should be taken out of service as soon as possible for an internal inspection, but no internal inspection was conducted after 1994. Motiva also switched Tank 393 from storing fresh sulfuric acid to spent sulfuric acid without conducting a full engineering review (known as a management of change review) that would have required technical experts to analyze the changes to account for the flammable hydrocarbons in spent sulfuric acid.

Shortly before the explosion, according to the statement of facts, Motiva had several warnings from its own employees about Tank 393’s problems. Nevertheless, workers were sent to acid tank farm to repair the catwalk connecting the tanks on July 17, 2001, and a hot works permit was issued for the job. During the afternoon of that day, flammable vapors from Tank 393 reached a heat source, and the resulting explosion caused the Tank 393 to separate from its foundation pad. Mr. Davis’s body was never recovered. Additionally, approximately 99,000 gallons of sulfuric acid drained into the Delaware River for days after the explosion.

“The \$10 million fine is the largest criminal environmental fine in Delaware history,” said First Assistant U.S. Attorney Andrews. “It is an appropriate fine, given the gravity of Motiva’s misconduct.”

In announcing today’s guilty plea, Assistant Attorney General Sansonetti and First Assistant U.S. Attorney Andrews credited the Environmental Protection Agency’s Criminal Investigation Division; the EPA Office of Regional Counsel; the Occupational Safety and Health Administration; the Delaware Department of Natural Resources & Environmental Control; the Delaware State Police; and the Delaware State Fire Marshal’s Office. This case was prosecuted by Senior Trial Attorney Mark Kotila and Trial Attorney Evin Christensen of the Justice Department’s Environmental Crimes Section and Assistant U.S. Attorney Edmond Falgowski.

For more information please contact Edmond Falgowski at (302) 573-6277, ext. 122 or visit our website at <http://www.usdoj.gov/usao/de/index.html> for additional details.

###