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ENRD (202) 514-2007
EPA (215) 814-5100
TDD (202) 514-1888

MOTIVA ENTERPRISES SETTLES FEDERAL–STATE LAWSUIT RESULTING FROM EXPLOSION AT DELAWARE CITY REFINERY

Settlement Worth Combined Total of Nearly \$23.7 Million in Civil Penalties, Environmental Projects, Injunctive Relief, and Response Costs

WASHINGTON, D.C.— Motiva Enterprises LLC (Motiva) has agreed to pay \$12 million to settle a joint federal–state civil lawsuit arising from a catastrophic explosion in 2001 at the company’s former Delaware City refinery that killed one employee, injured several others, and caused a massive discharge of spent sulfuric acid from a ruptured tank, the Justice Department, the Environmental Protection Agency (EPA) and the state of Delaware announced today.

In addition to the \$12 million civil penalty, Motiva will finance a series of environmental projects valued at more than \$4 million and reimburse the United States and Delaware for over \$170,000 in response costs. The settlement resolves claims against Motiva under the federal Clean Water Act (CWA), Clean Air Act, CERCLA (the Superfund statute), and numerous state environmental statutes. In 2004, Motiva sold the Delaware City refinery to the Premcor Refining Group Inc. (Premcor), which has agreed to join the settlement and to institute a series of controls valued at approximately \$7.5 million, to improve safety at the refinery. The combined total of nearly \$23.7 million in civil penalties, environmental projects, injunctive relief, and response costs is one of the largest settlements secured in an enforcement action involving violations of environmental laws at one facility. The civil penalty is the largest ever collected in Delaware for environmental violations.

“Companies that fail to adhere to environmental laws not only put our natural resources and wildlife at risk; they risk the lives and the safety of workers,” said Acting Assistant Attorney General Kelly A. Johnson, of the Justice Department’s Environment and Natural Resources Division. “Today’s civil settlement reinforces our commitment to seeing that violators will be met with firm and decisive action, so that others will be deterred from breaking our laws and future catastrophes will be averted.”

On July 17, 2001, a 415,000-gallon tank at the Delaware City Refinery—then owned by Motiva—exploded while containing spent sulfuric acid, a mixture of sulfuric acid, water and hydrocarbons. The explosion killed one worker and injured several others. More than one

million gallons of sulfuric acid were released from the tank farm and approximately 100,000 gallons spilled into the Delaware River, killing an estimated 2,400 fish and 240 crabs.

“This is the largest Clean Water Act settlement in the history of Delaware,” said Donald S. Welsh, EPA regional administrator for the mid-Atlantic region. “In addition to Motiva paying a substantial penalty, today’s settlement requires Premcor, the current owner of the refinery, to take immediate concrete steps to ensure compliance with environmental and safety regulations so that the tragic events of July 2001 will never be repeated.”

In January 2002, OSHA issued a Citation & Notification of Penalty to Motiva citing willful violations which Motiva later settled for a total of \$132,000. In July 2003, Motiva pleaded no contest to criminally negligent homicide and assault charges brought by the state attorney general. As a result, the presiding state judge ordered the company to pay \$296,000 in penalties. In September 2003, Motiva agreed to pay \$36.4 million to the widow and family of the worker who died. The amounts of settlements Motiva reached with other injured employees have not been made public. Most recently, in March 2004, as part of a criminal plea agreement with the United States Department of Justice in which Motiva pleaded guilty to negligently endangering its workers at the refinery and felony violations of the CWA, Motiva was ordered to pay a \$10 million fine and to serve a three-year term of probation.

“This settlement closes a tragic chapter in the history of the Delaware City refinery,” said Delaware Governor Ruth Ann Minner. “While nothing can erase the human and environmental impacts resulting from this event, we have made a number of changes on a state level as a result, including the enactment of Delaware’s Above Ground Storage Tank Act and our enforcement action requiring enhancements to the refinery’s mechanical integrity programs. Those, in addition to the improvements that will come from this settlement, will help ensure that this facility operates more safely. It also shows that negligent behavior can have dire consequences and will not be tolerated in Delaware.”

The tank explosion also led to the passage of Delaware’s Jeffrey Davis Above Ground Storage Tank Act and a state enforcement action requiring an audit of and improvements to the refinery’s mechanical integrity programs. Jeffrey Davis was the worker killed in the explosion.

“Motiva’s conduct was inexcusable,” said Delaware Attorney General Jane Brady. “Nothing we do can undo the harm to the workers and their families but I trust all companies will take a lesson from this civil matter and our criminal prosecution and realize that we will not tolerate this type of behavior in Delaware.”

“This accident would likely have been averted by a stringent tank inspection and repair program. Although Motiva saved thousands of dollars in putting off the inspection of Tank 393, it has now paid more than \$58 million as a consequence of its actions,” said Rudolph Contreras, Civil Chief, U.S. Attorney’s Office for the District of Delaware. “This fact alone should be a clear message to other companies that cutting corners on safety and the environment makes no economic sense.”

As part of the agreement announced today, Motiva will undertake a number of environmental projects in Delaware. Among these projects, Motiva will purchase and maintain three hybrid transit buses for DART, construct native-species shellfish beds in the Delaware River, fund the installation and operation of a water quality monitoring station in the Delaware River, purchase approximately \$165,000 of emergency equipment for the Delaware City Fire Company, and construct a meteorologic station for DNREC near the refinery to help assess wind and weather conditions if there are future accidents.

In addition, Premcor will grant a conservation easement over 285 acres of ecologically significant land near the refinery that will end the land's current agricultural use and restrict further use of the area in perpetuity. Motiva will spend at least \$447,500 on restoration activities, such as the planting of trees and the suppression of weeds and non-native species, that are designed to allow the area to grow back to its natural state. The lands surround Dragon Run—an important natural area and tributary of the Delaware River—and will provide a protective buffer for the waterway and its associated wetlands.

Premcor will also undertake a number of measures at the refinery designed to address issues raised by the investigations into the causes of the July 2001 incident, including improved hot-work-permitting procedures.

The proposed consent decree is subject to a 30-day public comment period and final court approval.

A copy of the consent decree lodged today will be available by the close of business today on the Department of Justice website at <http://www.usdoj.gov/enrd/open.html>.

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