UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of	)	
	)	
Exxon Corporation,	)	
a corporation,	)	
	)	File No. 9~~91-0077~~
and	)	FTC Docket No. C-3907
	)	
Mobil Corporation,	)	
a corporation.	)	

<u>APPLICATION FOR APPROVAL OF PROPOSED BASE OIL SUPPLY CONTRACTS</u>

Public-Record Version
(Redacted)

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FILED UNDER SEAL

UNITED STATES OF AMERICA
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In the Matter of **Exxon Corporation,** a corporation, and **Mobil Corporation,** a corporation.	)))))))))	File No. 991-0077 Docket No. C-3907

APPLICATION FOR APPROVAL OF PROPOSED BASE OIL SUPPLY CONTRACTS

Respondent Exxon Mobil Corporation ("ExxonMobil"), successor to Exxon Corporation and Mobil Corporation, has entered into Base Oil Supply Agreements with Castrol North America Inc. ("Castrol") and Pennzoil-Quaker State ("PQS"), which together require ExxonMobil to supply a cumulative total of twelve (12) MBD of Base Oil in compliance Paragraph XIV.B. of the Commission's Decision and Order. The proposed Base Oil Supply Agreements are provided in the Appendix, at Tabs A-B.[1] ExxonMobil hereby submits this application for approval of the proposed Base Oil Supply Agreements.

ExxonMobil requests confidential treatment of this Application and the two-volume Appendix thereto, which contains the Agreements between ExxonMobil and Castrol and between ExxonMobil and PQS, pursuant to Rule 4.9(c), 16 C.F.R. § 4.9(c) (1999). This

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[1] The proposed Agreement with Castrol ("Castrol Agreement"), dated May 5, 2000, is set forth at Tab A. The proposed Agreement with Pennzoil-Quaker State ("PQS Agreement"), dated May 4, 2000, is set forth at Tab B.

Application and the Appendix contain confidential and commercially sensitive information that should be accorded confidential treatment under 5 U.S.C. § 552 and Rule 4.10(a)(2), 16 C.F.R. § 4.10(a)(2) (1999), and should be exempt from disclosure under Exemptions 4, 7(A), 7(B), and 7(C) of the Freedom of Information Act and the Hart-Scott-Rodino Antitrust Improvements Act, 15 U.S.C. § 18a(h). Maintaining the confidentiality of the information contained in this Application furthers the public interest by ensuring that the information does not become publicly available to competitors of ExxonMobil, Castrol, and PQS.[2] The public's interest in strong and robust competition among persons engaged in the production and sale of Base Oils is furthered by preventing competitors from obtaining sensitive commercial information about each other.

A redacted, public-record version of this Application, which omits the confidential information contained in the Application and Volume I of the Appendix, is being filed simultaneously herewith.

ExxonMobil desires for its Agreements with Castrol and PQS to become effective as soon as possible, following Commission approval thereof, and no later than . Prompt consummation will further the purposes of the Decision and Order and is in the interests of the public and the parties, because it will allow Castrol and PQS to begin receiving Base Oil under the terms of their agreements. ExxonMobil requests that the Commission promptly commence the period of public comment provided for by Commission rules, limit the public-comment period to the customary 30-day period, and grant the

2 Importantly, ExxonMobil's Agreement with Castrol is confidential with respect to PQS and ExxonMobil's Agreement with PQS is confidential with respect to Castrol.

requested approval of the proposed Agreements as soon as possible after the close of the comment period.

I. Names of and Corporate Information About Proposed Purchasers of Base Oil

Castrol North America Inc.'s ("Castrol") address is 1500 Valley Road, Wayne, New Jersey, 07470 (Contact: William Rosanio, Director of Supply, (973) 633-3375). Castrol is a blender and marketer of finished lubricants. Castrol is a wholly owned subsidiary of Burmah Castrol plc. A copy of Burmah Castrol's most recent annual report, obtained from its web-site, is attached at Tab D.

Pennzoil Quaker State's ("PQS") address is P.O. Box 2967, Houston, Texas, 77252-2967 (Contact: Miranda Buckley, Manager of Lubes Supply and Distribution, (713) 546-4566). PQS is a refiner of base oil and a blender and marketer of finished lubricants. A copy of PQS's most recent annual report, obtained from its web-site, is attached at Tab E of the Appendix; a copy of PQS's most recent SEC Form 10-K is attached at Tab F.

II. Description of Agreements and Consistency with Terms of Consent Decree

The Agreements with Castrol and PQS both individually and together comply with the requirements of Paragraph XIV.B. of the Decision and Order.

1. Paragraph XIV.B. of the Decision and Order requires that ExxonMobil enter into Base Oil supply contracts with at least one, but not more than three, acquirer(s) to supply a cumulative total of twelve (12) MBD of Base Oil. ExxonMobil has entered into supply contracts with two companies, Castrol and PQS. The Agreements provide for ExxonMobil to supply a cumulative total of 12 MBD of Base Oil:

2. Paragraph XIV.B.1. requires that the Base Oil agreements have terms of ten years. Both Base Oil Supply Agreements will run for a period of ten years,

3. Paragraph XIV.B.2. requires that, pursuant to the agreements, ExxonMobil supply Base Oil from any or all of the Designated Base Oil Refineries (ExxonMobil's refineries at Beaumont and Baytown, Texas, and Baton Rouge, Louisiana).

4. Paragraph XIV.B.3.(a) requires that the agreements require the acquirer to take delivery of the Base Oil to be supplied and not provide for a waiver of the acquirer's obligation to take delivery.

5. Paragraph XIV.B.3.(b) requires the purchasers to notify ExxonMobil of the qualities and quantities of Base Oil that will be purchased.

6. Paragraph XIV.B.4. requires that ExxonMobil initially make available to the acquirers Base Oil in proportionate grades, viscosities, qualities, and amounts that correspond to the 1999 production at ExxonMobil's Beaumont, Texas, refinery, and thereafter provide the purchaser with the option to purchase Base Oil in proportionate grades, viscosities, qualities, and amounts that correspond to the planned production at all of

ExxonMobil's Designated Base Oil refineries.

7. Paragraph XIV.B.5. requires the agreements to specify a formula price for each grade, viscosity, and other quality of Base Oil. The formula price terms shall be subject to renegotiation no more frequently than once every three years, subject to binding arbitration if the parties do not agree, and may not be calculated as a function of United States or Canadian Base Oil prices (but may be calculated as a function of any widely traded commodity).

3

III. The Proposed Divestitures and Related Relief Will Achieve the Purposes of the Decision and Order and Result in No Harm to Competition

The proposed long-term supply agreements with Castrol and PQS will achieve the purpose of the Decision and Order. Both Castrol and PQS are experienced blenders of Base Oils into finished lubricants. As a result, both companies will be able to make effective use of the Base Oils purchased pursuant to the Base Oil Supply Agreements in the production of finished lubricants for sale to consumers.

acquirers may also resell the quantities purchased from ExxonMobil and thereby compete in both the market for paraffinic Base Oil. Indeed, PQS is an experienced producer and seller of Base Oil, and Castrol, through its parent Burmah Castrol, has experience selling Base Oil outside of North America. As a result, the proposed Agreements will have a positive effect on competition both in the market for paraffinic Base Oil and in the market for finished lubricants.

The Agreements will prevent the reduction in competition alleged in the Commission's Complaint.

ExxonMobil will not have the ability to control the pricing of the 12 MBD of Base Oil sold pursuant to these Agreements, which is approximately the volume of Base Oil produced by Mobil prior to the Exxon-Mobil merger.

Nor will these Agreements adversely affect competition. Castrol does not produce Base Oil in North America. PQS produces approximately 5.9 MBD of paraffinic Base Oil itself and is a participant in the Excel Paralubes Joint Venture that entitles it to approximately 10.75 MBD of paraffinic Base Oil production. Because the Excel Paralubes Joint Venture is not operated by PQS, however, PQS could not reduce the venture's output to affect market prices.

The result of the merger and these supply contracts will be to keep constant the number of competitors in the market for paraffinic Base Oil, since Castrol did not previously produce Base Oil in North America. Moreover, even if PQS were assumed to have full control over its share of the output of the Excel Paralubes Joint Venture — which, as noted, in fact overstates PQS's market position — it would still control only 16.6 MBD of Base Oil (or only about 8% of North American capacity), and the supply contracts together would cause only a *de minimis* increase in market concentration — below the levels of concern in the Merger Guidelines. Based on the relevant market defined in the Commission's Complaint — parafinnic Base Oil in the United States and Canada (Complaint, ¶ 52) — the HHI would increase by only approximately points — from 971 to — as a result of the supply agreements. See Table 1, below.[4] Such an HHI increase is within the safe harbor provided by the Merger Guidelines.

[4] The separate merger-related concern of the Commission about Base Oil — Mobil's control over Valero's production at its Paulsboro, New Jersey, refinery by virtue of Mobil's off-take agreement with Valero — was remedied by ExxonMobil's obligation to offer an amendment to the Valero off-take agreement. See Decision and Order, ¶ XIV.A. Accordingly, none of Valero's production should be attributed to ExxonMobil for purposes of calculating market shares.

Table 1

Company	2000 — Without Exxon-Mobil Merger		2000 — Post-Merger with Proposed Base Oil Supply Agreements	
	Capacity (MBD)	Share (%)	Capacity (MBD)	Share (%)
ARC	2400	1.2	2400	1.2
Calumet	4400	2.2	4400	2.2
Chevron	14000	7.1	14000	7.1
Citgo[5]	6333	3.2	6333	3.2
Equilon	4500	2.3	4500	2.3
Ergon	4300	2.2	4300	2.2
Exxon/ExxonMobil	43400	21.9	43400	21.9
Mobil/ExxonMobil	12000	6.1	--	--
Marathon-Ashland	7820	3.9	7820	3.9
Motiva	18000	9.1	18000	9.1
PQS[6]	16650	8.4		
Sun	17700	8.9	17700	8.9
Valero	11500	5.8	11500	5.8
Conoco[7]	13917	7.0	13917	7.0
PetroCan	12500	6.3	12500	6.3
Shell	2700	1.4	2700	1.4
Safety-Kleen	4800	2.4	4800	2.4
Evergreen	800	0.4	800	0.4
Mohawk	500	0.3	500	0.3
Castrol	--	--		
HHI		971		
Source: NPRA, *2000 Lubricating Oils and Wax Capacities*				

[5] Citgo's capacity includes two-thirds of Cit-Con Joint Venture with Conoco.

[6] PQS's capacity includes one-half of capacity of Excel Paralubes Joint Venture with Conoco. Figure overstates PQS's effective market presence because PQS does not have operational control of Excel.

[7] Conoco's capacity includes one-third of capacity of Cit-Con Joint Venture with Citgo and one-half of capacity of Excel Paralubes Joint Venture with PQS. Figure overstates Conoco's effective market presence because Conoco does not have operational control of Cit-Con.

Respectfully submitted,

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