

Exxon Wins \$888 Mln Verdict Reduction, Loses Appeal (Update3)

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April 1 (Bloomberg) -- A Louisiana appeals court reduced a \$1 billion verdict against Exxon Mobil Corp. to \$112.3 million, while upholding a jury's finding that the company was responsible for radioactive contamination of land near New Orleans.

Exxon was responsible for polluting the land with radium- tainted residue from oil-drilling pipe cleaning operations, Michael Stag, attorney for site owner Joseph Grefer and his siblings, said. In May 2001, a New Orleans jury awarded Grefer, a former Louisiana state court judge, and his family \$56.15 million for clean-up costs and \$1 billion in punitive damages.

The appellate court yesterday upheld the compensatory damages, while calling the punitive award excessive and reducing it to \$112.3 million. The court said the company's conduct was "inexcusable." The decision will support more than 100 personal injury suits filed against Exxon by workers at the contaminated site, Stag said.

"Exxon will have a hard time arguing that it was not responsible for exposing the workers to radioactive material," Stag said. Three trials on these claims, each involving workers claiming they developed cancer through such exposure, are scheduled to begin later this year, he said.

The entire judgment, with interest, is now \$219 million, Stag said. The company will appeal, said Charles Matthews, Exxon Mobil general counsel. "Not only were punitives unwarranted because ExxonMobil acted responsibly but the court's ruling allows punitive damages for conduct that occurred long before the punitive damages statute took affect," he said in an e-mailed statement.

Oil Field Pipe

Starting in 1935, Exxon sent oil-field pipe for cleaning to a company called Intercoastal Tubular Services Inc., which began leasing the Grefer family's property in Harvey, Louisiana, in 1968, Stag said. The pipes contained radioactive scale, including Radium 226 and 228 and radon gas, Stag said.

"When the scale was removed, there was no control of the removal of the debris," he said.

The Grefer family found out about the contamination in 1996 after being sued by one of the workers at the site, who had been diagnosed with cancer, Stag said.

Exxon was aware of the radioactive elements in the pipe and failed to inform Intercoastal Tubular, the court said in a 61- page decision. From June 1986 to March 1987, "Exxon officials intentionally withheld information," the court said. Exxon "knew the scale posed a direct danger to the physical health of those workers."

In upholding the jury's determination that punitives should be awarded, the court said there was "sufficient evidence to support the jury's finding that Exxon engaged in wanton and reckless conduct."

Excessive

The court said the amount of damages awarded was excessive, in light of recent U.S. Supreme Court decisions on punitive damages. The court said an award closer to the amount of actual

damages was reasonable.

“In the grand scheme of things, this is an inconsequential amount of money,” said Joseph Ancona, an analyst at Burns Gustus & Co. in West Palm Beach, Florida, who has a buy rating on Exxon Mobil shares. “When you know they buy back more than \$9 billion of their stock a year, it’s clear this won’t cause them any pain.”

Exxon Mobil considers the judgment, even as reduced, excessive and unjustified, spokeswoman Susan Reeves said. Exxon said that the Louisiana Department of Environmental Quality had determined that the amount of radioactive material on the Grefer site was not a threat to humans or the environment.

\$56 Million

Exxon argued that the \$56 million awarded to clean up the site was unreasonable because the Grefer property is valued at \$1.5 million. The court disagreed, saying the amount was supported by evidence at trial related to the cost of cleaning up the property.

This is a standard that other courts have accepted, said Thomas McGarity, a professor at the University of Texas School of Law in Austin. “The value of the property is an inappropriate measure of damages,” he said. “Someone is on the hook to clean it up.” Exxon and other oil and gas companies face multiple environmental contamination lawsuits in the U.S. Southwest, McGarity said. “The oil patch in the old days was a pretty dirty place,” he said, adding that the \$112.3 million punitive judgment approved by the appeals court is within the guidelines set by the U.S. Supreme Court. “They’re not out of line,” he said.

The property damage lawsuits are more threatening to the industry than the personal injury cases, he said. “In the property damage claims, causation can be proved. It’s much harder with personal injury claims,” McGarity said.

Alabama Verdict

In November 2003, Alabama jurors ordered Exxon to pay an \$11.9 billion judgment, the largest U.S. jury award that year, which included \$11.8 billion in punitive damages. The state claimed the company committed fraud by deliberately underpaying royalties for natural gas extracted from wells in state waters over eight years. The punitive verdict was subsequently reduced to \$3.5 billion. The company is appealing.

Exxon Mobil, the world’s largest publicly-traded oil company, is based in Irving, Texas. Shares of Exxon rose 95 cents to \$60.55 at 4:18 p.m. in New York Stock Exchange composite trading.

The lawsuit is Grefer v. Alpha Technical, No. 2002-CA-1237 in the Louisiana 4th Circuit Court of Appeal.