



CITY ATTORNEY DENNIS HERRERA NEWS RELEASE

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 19, 2008

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Herrera Sues ExxonMobil for Refusal to Clean Up Decades of Pollution at Fisherman's Wharf Site

Oil Conglomerate's Defiance Causes Continuing Release of Hazardous Materials Into Soil, Groundwater and Bay, According to City's Complaint

SAN FRANCISCO (June 19, 2008)—City Attorney Dennis Herrera today filed suit against ExxonMobil Oil Corporation for its defiant refusal to address environmental damage caused by decades of disposal and release of hazardous petroleum products on property owned by the Port of San Francisco in the City's Fisherman's Wharf area. The civil action filed in San Francisco Superior Court this morning details a long pattern of broken promises and bad faith by the company and its predecessors dating back to 1994, when the City obtained an agreement from what was then Mobil Oil to remediate soil and groundwater contamination caused by its fueling facility at 440 Jefferson Street, which had operated between 1938 and 1992.

Despite multiple agreements and regulatory enforcement actions requiring cleanup of the site in the years since, however, the Irving, Texas-based conglomerate has consistently stonewalled the City and reneged on promises to remediate its environmental pollution, according to the 20-page complaint. Herrera's case additionally charges that ExxonMobil's failure to contain and remediate petroleum hydrocarbons at the site continues to cause ongoing releases of hazardous materials into the soil, groundwater, tidal water and sediment of the San Francisco Bay.

"After years of broken promises and neglect, ExxonMobil has left us little choice but to litigate to protect our environment from further pollution," Herrera said. "Fourteen years of foot-dragging have added insult to decades of environmental injury by this company and its corporate predecessors. Worse still, this persistent inaction is the cause of ongoing pollution to our soil, our groundwater, and our bay. Residents and taxpayers have been footing the bill for this for too long, and it's time for ExxonMobil to clean up its contamination and pay the price for its delay."

The City seeks a court order to compel ExxonMobil to undertake all investigative and remedial actions to comply with appropriate cleanup standards, including those mandated by the San Francisco Bay Regional Water Quality Control Board as recently as 2006. Additional injunctive relief would require the company to pay all ongoing and future costs to abate the contamination, and to permanently indemnify the City against related liability and costs. The City is additionally seeking damages, disgorgement of profits, and attorneys' fees and court costs. The case is: *City and County of San Francisco v. ExxonMobil Oil Corporation*, San Francisco Superior Court, filed June 19, 2008.

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CITY AND COUNTY OF SAN FRANCISCO,
10 BY AND THROUGH ITS PORT COMMISSION,
AND PEOPLE OF THE STATE OF CALIFORNIA

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13 UNLIMITED JURISDICTION

14 CITY AND COUNTY OF SAN
15 FRANCISCO, BY AND THROUGH ITS
16 PORT COMMISSION, AND PEOPLE
OF THE STATE OF CALIFORNIA,

17 Plaintiff,

18 vs.

19 EXXONMOBIL OIL CORPORATION, a
20 corporation, and Does 1-100,

21 Defendant.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR
CONTINUING PRIVATE NUISANCE,
CONTINUING PUBLIC NUISANCE,
CONTINUING TRESPASS, UNJUST
ENRICHMENT, BREACH OF
CONTRACT, AND EQUITABLE
INDEMNITY**

22
23
24 The City and County of San Francisco, a municipal corporation, operating by and through
25 the San Francisco Port Commission ("the City"), and the People of the State of California, allege as
26 follows:
27

NATURE OF THE ACTION

1
2 1. Plaintiffs bring this civil action against defendant ExxonMobil Oil Corporation
3 ("ExxonMobil") for injunctive relief and damages resulting from ExxonMobil's disposal and
4 release of hazardous substances including hazardous petroleum products ("hazardous materials") on
5 and beneath the facility known as the Former Mobil Bulk Terminal 04-394 ("Former Mobil
6 Terminal") on property owned by the San Francisco Port Commission ("Port" or "City") in the
7 Fisherman's Wharf area of San Francisco, California. The disposal and release of petroleum
8 products occurred while ExxonMobil's predecessors in interest operated underground and above
9 ground fuel transfer pipelines, underground and above ground fuel storage tanks, fuel loading and
10 unloading facilities, and related facilities as a licensee of the City and County of San Francisco ("the
11 City").

12 2. ExxonMobil is liable for injunctive relief and damages because the release and
13 continued presence of such hazardous materials constitutes a continuing nuisance; a continuing
14 trespass; because ExxonMobil has been unjustly enriched to the detriment of the City; because
15 ExxonMobil has breached its written promises to the City; and because the City is entitled to
16 equitable indemnity from ExxonMobil.

17 3. The City seeks injunctive relief, equitable indemnification and money damages for
18 ExxonMobil's breaches and tortious actions. The San Francisco City Attorney in addition seeks
19 abatement of the public nuisance caused by ExxonMobil on behalf of the People of the State of
20 California ("the People").

21 4. The City also seeks a declaration of future rights and duties of ExxonMobil with
22 respect to potential environmental claims asserted against the City, as well as environmental orders
23 issued to the City, whether named as the City or the Port, by governmental agencies and third
24 parties, asserting that the City is liable for remediation and/or damages associated with the presence
25 of hazardous materials at, under, and emanating from the Former Mobil Terminal.

1 **VENUE**

2 5. This action involves property located in the City and County of San Francisco.
3 Venue is proper in this Court, because the hazardous materials releases, and related violation of
4 laws, occurred in the City and County of San Francisco, and because ExxonMobil at all relevant
5 times has done business in the City and County of San Francisco.

6 **PARTIES**

7 6. The City is a municipal corporation duly organized and existing under the laws of
8 the State of California. Under the Burton Act, Stats. 1968, ch. 1333, the City, acting by and through
9 the San Francisco Port Commission and other City departments or agencies, has at all relevant times
10 had complete authority to use, operate, maintain, manage, regulate, improve, and control the Port
11 and related facilities along approximately 7.5 miles of the eastern and northern waterfront of the
12 City, adjacent to the San Francisco Bay.

13 7. The People appear by and through Dennis J. Herrera, San Francisco City Attorney,
14 who asserts the Third Cause of Action for abatement of the public nuisance caused by
15 ExxonMobil's historical business operations pursuant to California Code of Civil Procedure Section
16 731.

17 8. Plaintiffs are informed and believe and on that basis allege that ExxonMobil is a
18 corporation duly organized and existing under the laws of the State of New York, with its principal
19 offices in Irving, Texas. Plaintiffs are informed and believe and on that basis allege that
20 ExxonMobil is qualified to do business and is actually doing business in the State of California.

21 9. Plaintiffs are informed and believe and on that basis allege that ExxonMobil is the
22 successor in interest to Mobil Oil Corporation, a New York corporation; Socony Mobil Oil
23 Company, Inc., a New York corporation; General Petroleum Corporation; and General Petroleum
24 Corporation of California.

25 10. Plaintiffs are informed and believe and on that basis allege that as of October 10,
26 1938, General Petroleum Corporation of California ("General Petroleum/California") was a
27 subsidiary of Socony-Vacuum Corp., which became Socony Mobil Oil Company ("Socony") in

1 1955. Plaintiffs are further informed and believe and on that basis allege that General
2 Petroleum/California operated at all times pertinent to this action under the name General Petroleum
3 Corporation ("General Petroleum"), and that General Petroleum/California entered into certain
4 license documents described in this complaint under the name of General Petroleum Corporation.

5 11. Plaintiffs are informed and believe and on that basis allege that in or around 1966,
6 Socony Mobil Oil Company changed its name to Mobil Oil Corporation ("Mobil Oil").

7 12. Plaintiffs are informed and believe and on that basis allege that in or around 1999,
8 Mobil Oil merged with Exxon Corporation to form a new company called Exxon Mobil
9 Corporation or ExxonMobil.

10 **FACTUAL ALLEGATIONS**

11 A. History of Fuel Operations at the Former Mobil Terminal

12 13. The Former Mobil Terminal is located at 440 Jefferson Street in the City (the "Site").
13 The Site includes a rectangular lot between Leavenworth and Hyde Streets in the Fisherman's
14 Wharf area of the City. Prior to 1968, the entire San Francisco waterfront area, including the Site,
15 was under the jurisdiction of the State of California. In 1968 the State transferred its responsibilities
16 for the San Francisco waterfront to the City through the Burton Act. The City, through its Port
17 Commission, manages the San Francisco waterfront, including the Site, for the benefit of the
18 citizens of California.

19 14. The Former Mobil Terminal is located approximately 100 feet from the San
20 Francisco Bay at an elevation of approximately 5 feet above mean sea level. Plaintiffs are informed
21 and believe and on that basis allege the following facts: Prior to the late 1890s, the vicinity of the
22 Site was completely submerged in a shallow cove of the San Francisco Bay with waters three to
23 seven feet deep. Between 1880 and 1893, a seawall was constructed in the area. When the seawall
24 was completed, water lots in the vicinity of Jefferson Street along the seawall were filled with rock,
25 rubble and other material. The Former Mobil Terminal was located on what is known alternatively
26 as Sea Wall Lot D, Sea Wall Lot 303, or Facility 303.

1 reports." Access Agreement, Recital D. As part of the Access Agreement, Mobil further agreed as
2 follows:

3 Section 2. Preparation of Plans. Mobil shall investigate the Access Area to
4 determine the extent and nature of any subsurface contamination resulting
5 or arising from the operation of the Facility. Upon approval of the final
6 investigation report by the Port and the San Francisco Bay Regional Water
Quality Control Board, Mobil shall prepare a Remediation Plan for soil and
groundwater contaminated by petroleum hydrocarbons.

7 The Access Agreement defines the "Access Area" as the real property owned by the Port within and
8 adjacent to the Facility, which is more particularly described in Exhibit A to the Access Agreement.

9 19. In the Access Agreement, Mobil Oil further promised to do the following:

10 Section 3. Conduct of Remediation Activities. Mobil shall remediate all
11 petroleum hydrocarbon contaminated soil and groundwater identified in the
12 final approved investigation report, to a level that meets federal and state
13 guidance, as set forth in the Remediation Plan; provided that Mobil's
14 remediation duty shall extend only to contamination which arose out of the
operations of Mobil or parties operating under Mobil's license or
authorization.

15 20. Mobil Oil agreed that upon completion of petroleum hydrocarbon remediation at the
16 Site, it would "notify the Port of completion of remediation in a written report which describes all
17 remediation measures taken, including verification sampling and analyses." Mobil Oil further
18 agreed that this report would contain a certification from a professional environmental contractor
19 "that all remediation measures as contained in the Remediation Plan, as it may be amended from
20 time to time, have been carried out, that significant environmental, health and safety risks have been
21 eliminated, and that the condition of the Access Area meets standards normally accepted by the San
22 Francisco Bay Regional Water Quality Control Board and California Environmental Protection
23 Agency for remediation in the area of the San Francisco Bay." (Access Agreement, Section 3(i).)

24 21. To date, neither Mobil Oil nor ExxonMobil has notified the City or the Port of its
25 completion of Site remediation in a written report that describes all remediation measures taken,
26 including verification sampling and analyses.

1 with the State Water Resources Control Board for the investigation and cleanup of soil and
2 groundwater contamination from leaking petroleum underground storage tanks.

3 26. On March 11, 2003, the Regional Board issued a "Water Code Section 13267
4 Request for a Technical Information Report and a Post-Demolition Workplan for Wharf J-10 and
5 the Former Mobile [sic] Bulk Terminal 04-394, San Francisco" (the "Section 13267 Request"). The
6 Regional Board directed the Section 13267 Request to ExxonMobil because of ongoing petroleum
7 hydrocarbon contamination in the soil and groundwater resulting from Mobil's operation of the
8 Former Mobil Facility, and to the Port as the property owner. Thereafter, Regional Board directed
9 ExxonMobil and the Port to prepare various technical reports and plans for investigating the nature
10 and extent of contamination related to ExxonMobil's former operations at the Site.

11 27. In March 2006, the Regional Board issued Order No. R2-2006-0020, entitled "Site
12 Cleanup Requirements for: ExxonMobil and the Port of San Francisco, Former Mobil Bulk
13 Terminal 04-394 for the property located at 440 Jefferson Street, City and County of San Francisco
14 ("2006 Regional Board Cleanup Order")." The 2006 Regional Board Cleanup Order names
15 ExxonMobil as the Primary Discharger because "ExxonMobil is responsible for petroleum
16 hydrocarbon releases to soil and groundwater" due to its predecessors' operation of a "gasoline and
17 diesel bulk storage and dispensing facility at the Site from approximately 1935 to 1990." The
18 Regional Board further found that "gasoline and diesel releases were reported while ExxonMobil's
19 predecessors operated the site" and that "[d]ata demonstrate these releases have impacted soil and
20 groundwater in the Site vicinity." (2006 Regional Board Cleanup Order, p. 8.)

21 28. The 2006 Regional Board Cleanup Order names the Port as a Secondary Discharger
22 because of the Port's ownership and management of the Site property during the time of the releases
23 and at the time the order was issued. The Order states, however, that the Port will be held
24 responsible for compliance under the Order only if ExxonMobil fails to comply with the
25 requirements of the order.

26 29. In the 2006 Regional Board Cleanup Order, the Regional Board acknowledges that
27 ExxonMobil's prior investigation and remediation efforts have been unsuccessful: "Despite past
28

1 efforts to remove hydrocarbon impacted soil and groundwater, contamination persists to date."
2 (2006 Regional Board Cleanup Order, p. 13.)

3 30. ExxonMobil did not appeal or otherwise challenge the 2006 Regional Board Cleanup
4 Order.

5 E. ExxonMobil's Unfulfilled Promises to Rectify Its Historical Contamination

6 31. Between 1986 and 2006, Mobil Oil retained numerous consultants and contractors to
7 study the extent of the soil and groundwater contamination at the Site and to prepare investigation
8 reports and remediation plans. Notwithstanding Mobil Oil's promises to the City, ExxonMobil has
9 not adequately remediated the contamination caused by its historical operations. ExxonMobil has
10 installed and regularly monitors groundwater wells at the Site. However, it has not developed a
11 comprehensive remedial action plan to address contamination at the Site. Further, although
12 ExxonMobil has attempted remediation of the soil and groundwater at the Site through soil vapor
13 extraction and soil excavation, these efforts have been ineffective at either containing or
14 remediating the liquid phase petroleum hydrocarbon plumes in the aquifer.

15 32. Plaintiffs are informed and believe and on that basis allege that as a result of
16 ExxonMobil's failure to properly contain and remediate petroleum hydrocarbons in the soil and
17 groundwater at the Site, petroleum releases from the Site are on-going, resulting in continued
18 releases of hazardous materials to the soil, groundwater, tidal water and sediment, nearby properties
19 and San Francisco Bay. More particularly, Plaintiffs are informed and believe and on that basis
20 allege that groundwater sampling conducted by ExxonMobil since the subsurface contamination
21 was first discovered more than 15 years ago documented the presence of liquid phase petroleum
22 hydrocarbon in the groundwater in monitoring wells beneath the Former Mobil Terminal and
23 beneath the area known as Fish Alley to the north of the Former Mobil Terminal and along the
24 shoreline. Plaintiffs are further informed and believe and on that basis allege that the groundwater
25 in the vicinity of the Site communicates with the adjacent bay water depending on tidal flows, and
26 that petroleum hydrocarbons have and continue to migrate into the San Francisco Bay with the tidal
27 cycle.

1 Site. To date, ExxonMobil has utterly failed to propose a comprehensive and suitable corrective
2 action for addressing either the seepage or the contamination problems at the Site.

3 35. As a direct result of ExxonMobil's dilatory conduct, the City has incurred costs in
4 response to the discovery of the seepage, including, without limitation, costs to monitor, contain and
5 remove petroleum at the water surface in this area. In addition, the City has been required to retain
6 the services of an environmental consultant to determine the source of this petroleum seepage. The
7 City's consultant has concluded that the most likely source of the petroleum seep is subsurface
8 petroleum contamination associated with the Former Mobil Terminal, traveling through preferential
9 pathways created by heterogeneous fill material and underground utilities.

10 36. On a continuing basis through the present, the City has suffered injury from the
11 contamination caused by ExxonMobil. The City has incurred and will continue to incur costs in
12 responding to the contamination caused by ExxonMobil's activities at the Site, including the above
13 costs associated with responding to the seepage, in an amount to be determined. Until the
14 contamination problems caused by the Site are resolved, the City will continue to incur substantial
15 costs in the indefinite future.

16 37. On or about June 2, 2008, the City notified ExxonMobil by letter that the Port had
17 incurred approximately \$137,106 in costs responding to the contamination caused by ExxonMobil.
18 The City demanded that ExxonMobil indemnify it for these expenses within ten days, or June 12,
19 2008. To date, ExxonMobil has failed to do so.

20 **FIRST CAUSE OF ACTION**
21 **(FOR ABATEMENT OF CONTINUING PRIVATE NUISANCE AND DAMAGES)**
22 **(By the City against ExxonMobil)**

23 38. The City realleges and incorporates by this reference, as if fully set forth herein,
24 paragraphs 1 through 37.

25 39. The hazardous materials released onto, remaining on and emanating from the Former
26 Mobil Terminal by virtue of the operations of ExxonMobil constitute a private nuisance within the
27 meaning of California Civil Code Section 3479 because the materials have contaminated the soil

1 and groundwater at the Site, surrounding areas, and the San Francisco Bay. The contamination is
2 injurious to the environment, is offensive to the senses, and obstructs the free use, development and
3 comfortable enjoyment of the City's property.

4 40. During its activities at the Site, ExxonMobil created and allowed to continue
5 conditions, which constitute a private nuisance by permitting the release of hazardous materials at
6 and from the Site.

7 41. As a direct and proximate result of the failure of ExxonMobil to remove, contain and
8 otherwise immobilize the hazardous materials released at the Site, these contaminants have
9 migrated and continue to migrate through the soil and groundwater on, under and surrounding the
10 Former Mobil Terminal. The impact of the nuisance conditions created by ExxonMobil varies over
11 time as the contamination migrates and spreads continuously.

12 42. By intentionally and/or negligently causing a nuisance by contaminating the soil and
13 groundwater at or near the Site, ExxonMobil's actions have injured the City.

14 43. The above-described nuisance relating to the Site has interfered with the City's use
15 and enjoyment of property, and has created a risk to the environment.

16 44. Despite abundant notice and demands, ExxonMobil has failed and refused, and
17 continues to fail and refuse, to adequately investigate, assess, monitor, abate, and otherwise respond
18 to the nuisance. The conditions constituting the nuisance are capable of being abated to acceptable
19 levels at a reasonable cost by reasonable means.

20 45. As a direct and proximate result of the nuisance created by ExxonMobil, the City has
21 been, and will be, damaged in an amount to be determined, in excess of the jurisdictional limit of
22 this Court.

23 46. Unless ExxonMobil is restrained by order of this Court, it will be necessary for the
24 City to commence many successive actions against ExxonMobil to secure compensation for
25 damages sustained, thus requiring a multiplicity of suits, and the general public will be daily
26 threatened with harm to the environment.

1 Absent such abatement, the nuisance caused by ExxonMobil's actions will continue to impair the
2 public's right to the beneficial use, whether actual or potential, of the Bay and adjacent land.

3 56. The public nuisance created by ExxonMobil can be reasonably abated to acceptable
4 levels at a reasonable cost with existing technology. ExxonMobil can and should use this
5 technology to abate the nuisance.

6 57. ExxonMobil, by continually releasing and/or permitting to be released hazardous
7 materials into soil and groundwater at the Site and surrounding areas, has injured, and is irreparably
8 injuring, the People. The People have no adequate remedy at law for these injuries, and injunctive
9 relief requiring immediate abatement of the nuisance is expressly authorized by Section 731 of the
10 Code of Civil Procedure. The People are entitled to an injunction requiring ExxonMobil to
11 promptly abate the release and threat of releases of fuels, and to contain, remediate, and monitor on
12 an ongoing basis, all harm to the Site and adjacent properties, including the adjacent waterfront
13 area, marine life, and recreational opportunities at and about the waterfront abutting the Bay.
14 Specifically, the People seek an injunction that will require ExxonMobil immediately to act to
15 eliminate the release of hazardous materials onto Port lands and into the Bay, abate the nuisance and
16 remove trespassing material, and comply with all terms and deadlines in the 2006 Regional Board
17 Cleanup Order.

18 **FOURTH CAUSE OF ACTION**

19 **(FOR ABATEMENT OF CONTINUING TRESPASS AND DAMAGES)**

20 **(By the City against ExxonMobil)**

21 58. The City realleges and incorporates by this reference, as if fully set forth herein,
22 paragraphs 1 through 57.

23 59. ExxonMobil has caused hazardous materials to be released and discharged at and
24 from the Site. ExxonMobil and its predecessors in interest had no authority at any time to spill,
25 release, or permit to remain any such materials in the soils or groundwater at the Former Mobil
26 Terminal. ExxonMobil's release and discharge of the hazardous materials at the Site constitutes an
27 intentional and/or negligent trespass and is of a continuing nature.

1 defendant ExxonMobil has obtained a benefit in that ExxonMobil has avoided the expense of
2 removal or remediation of the presence of fuels, and avoiding compensating or reimbursing the City
3 for the costs and damages resulting from the failure to remove or remediate the presence of the
4 hazardous materials from the environment.

5 65. ExxonMobil has been unjustly enriched and should reimburse the City for the value
6 of the benefit conferred upon ExxonMobil by the improper release and spillage, failure to remove or
7 remediate the presence, of fuels at the Former Mobil Terminal.

8 **SIXTH CAUSE OF ACTION**

9 **(BREACH OF CONTRACT)**

10 **(By the City against ExxonMobil)**

11 66. The City realleges and incorporates by this reference, as if fully set forth herein,
12 paragraphs 1 through 65.

13 67. By executing the Access Agreement with the City, ExxonMobil agreed to investigate
14 the nature and extent of petroleum contamination arising out of its historical activities at the Former
15 Mobil Terminal and to remediate this contamination such that "significant environmental, health
16 and safety risks have been eliminated, and that the condition of the Access Area meets standards
17 normally accepted by the San Francisco Bay Regional Water Quality Control Board and California
18 Environmental Protection Agency for remediation in the area of the San Francisco Bay."

19 68. ExxonMobil also agreed to indemnify the City for any and all Claims incurred or
20 brought against it arising from ExxonMobil's historical operations at the Site and ExxonMobil's
21 performance of the Access Agreement.

22 69. The City has performed all of its obligations under the Access Agreement to provide
23 ExxonMobil with access to the real property owned by the City within and adjacent to the Site.

24 70. ExxonMobil breached the Access Agreement by failing to complete remediation of
25 the contamination caused by its operations at the Site, and by failing to indemnify the City for costs
26 it has necessarily incurred as a result of ExxonMobil's failure to remediate the Site.

1 costs of removal or remediation of the hazardous materials present in, or migrating from, the soil or
2 groundwater at the Former Mobil Terminal.

3 **PRAYER**

4 WHEREFORE, the City prays for judgment as follows:

5 1. That the Court issue an injunction ordering defendant ExxonMobil to perform all
6 necessary investigative and remedial action at and in the vicinity of the Former Mobil Terminal
7 required to comply with all applicable and appropriate cleanup standards, including those mandated
8 by the Regional Board, to abate the nuisance caused by ExxonMobil, specifically ordering
9 ExxonMobil immediately to act to eliminate the release of hazardous materials onto Port lands and
10 into the Bay, abate the nuisance and remove trespassing material, and comply with all terms and
11 deadlines in the 2006 Regional Board Cleanup Order;

12 2. That the Court issue an injunction ordering ExxonMobil to pay all ongoing and
13 future costs reasonably necessary to abate the contamination at the Former Mobil Terminal,
14 including contamination in surrounding areas emanating from ExxonMobil's historical operations at
15 the Site;

16 3. That the Court issue an injunction permanently ordering defendant ExxonMobil to
17 defend the City and to hold it harmless against all liability, loss, costs, and expenses, including
18 attorneys fees, consulting fees and public agency oversight fees, incurred by the City in
19 investigating and remediating contamination on and in the vicinity of the Former Mobil Terminal;

20 4. For damages in excess of the jurisdictional limit of this Court, in an amount to be
21 determined at trial, including, without limitation, all damages necessary to compensate the City for
22 its costs of investigation, monitoring, remediation and other costs of response incurred as a result of
23 the release of fuels by defendant ExxonMobil at the Former Mobil Terminal, as well as damages to
24 the City's economic interests and real property and for the loss of use and enjoyment of commercial
25 and recreational opportunities;

26 6. For an order requiring ExxonMobil to disgorge to the City all profits or monies that
27 defendant unjustly received or retained as a result of ExxonMobil's unlawful actions;

