

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

OFFICE OF NATURAL RESOURCE RESTORATION

Notice to Receive Interested Party Comments on Proposed Site Remediation and Natural Resource Damages Consent Order In the Matters of In re Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation, MDL 1358 Civil Action No. 08 Civ. 00312 (SDNY) (VSB); Civil Action No. 08 Civ. 00312; Civil Action No. 15-6468

Take notice that the New Jersey Department of Environmental Protection, its Commissioner, and the Administrator of the New Jersey Spill Compensation Fund (collectively NJDEP or Plaintiffs) hereby give notice of a proposed settlement of statewide claims as a result of contamination to waters of the State caused by the gasoline additive methyl tertiary butyl ether (MTBE).

NJDEP hereby proposes to enter a Judicial Consent Order with Chevron Corporation, Chevron U.S.A. Inc., UNOCAL Corporation, Kewanee Industries, Inc., Texaco Inc., TRMI-H LLC, and Union Oil of California, which will be collectively referred to herein as the "Chevron Settling Parties." In June 2007, NJDEP instituted lawsuits against nearly 50 companies, alleging that those companies were responsible for contamination of waters of the State of New Jersey caused by MTBE. The defendants included MTBE manufacturers and refiners as well as major brand marketers of gasoline containing MTBE. The defendants also included companies within the chain of distribution of gasoline containing MTBE in the State of New Jersey. NJDEP has identified over 6,000 sites where MTBE has been detected in the waters of the State.

In that litigation, the State asserted claims under the New Jersey Spill Compensation and Control Act (“Spill Act”), N.J.S.A. 58:10-23.11 to -23.24, the Water Pollution Control Act (“WPCA”), N.J.S.A. 58:10A-1 to -20, and the common law, alleging that the defendants, including the Chevron Settling Parties, were liable to the public for injuries to the natural resources of the State and required to remediate due to their discharges of MTBE, which is defined under New Jersey law as both a hazardous substance and pollutant.

This matter originated in Mercer County Superior Court, MER-L-1622-07, but was removed to the United States District Court for the District of New Jersey and later consolidated as part of the multidistrict litigation in the United States District Court for the Southern District of New York, MDL No. 1358 (VSB) (MDL). The MDL Judicial Panel later transferred bellwether sites, identified by the parties, back to the District of New Jersey for trial.

NJDEP pursued litigation against the Chevron Settling Parties for the contamination caused by MTBE because of the Chevron Settling Parties’ role as distributors of MTBE gasoline and their ownership and/or operation of gasoline service stations/facilities across the State. NJDEP alleged in its filed complaint that MTBE, a “hazardous substance” as defined by the Spill Act at N.J.S.A. 58:10-23.11b and a “pollutant,” as defined by the WPCA at N.J.S.A. N.J.S.A. 58:10A-3n, had been discharged into the environment, specifically into New Jersey’s waters, a natural resource of the State. MTBE contamination is being remediated at these Sites, including their off-site impacts, to below the maximum contaminant level of 70 parts per billion (ppb) under the supervision of a licensed site remediation professional (LSRP).

Following years of litigation, motion practice, and negotiations, the Chevron Settling Parties agreed to resolve their alleged liability to the public by paying, jointly and severally, a total

of \$175,000.00 in settlement of both the site-specific and statewide natural resource damages (NRD) claims brought by NJDEP. This settlement only concerns MTBE contamination and does not address contamination by any other hazardous substances, pollutants, or contaminants unless commingled with MTBE. The Chevron Settling Parties' remediation obligations, if any, are not affected by this settlement.

Under the proposed agreement, NJDEP would generally release and covenant not to sue the Chevron Settling Parties, with certain reservations, for causes of action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Spill Act, the WPCA, or any other statute; or for recovery of damages, past cleanup and removal costs, injunctive relief sought in NJDEP's Complaint, or for fees and other litigation costs related to the sites identified by the Plaintiffs in Exhibit "A" to the Judicial Consent Order. NJDEP also covenants not to sue the Chevron Settling Parties based on the Chevron Settling Parties' liability to NJDEP (i) under the common law with respect to MTBE discharges that threaten or affect the waters of New Jersey; (ii) in equity (except as reserved under the agreement) with respect to MTBE discharges that threaten or affect the waters of New Jersey; (iii) under theories of products liability with respect to MTBE discharges that threaten or affect the waters of New Jersey; or (iv) under any applicable federal or state statute, regulation or order where such liability is premised upon Defendants' "upstream activities," as defined by the agreement (which includes the manufacture, distribution, purchase, trading, or branding of MTBE gasoline, prior to the effective date of the Judicial Consent Order), with certain exceptions.

The proposed Judicial Consent Order would constitute a judicially approved settlement under the Spill Act, N.J.S.A. 58:10-23.11f(b), and CERCLA, 42 U.S.C. § 9613(f)(2), for the

purpose of providing protection from contribution actions or claims for matters addressed in this Judicial Consent Order. It would be executed by NJDEP, consistent with its authority under the Spill Act and WPCA, and its obligations and authorities as the trustee of New Jersey's natural resources. N.J.S.A. 58:10-23.11a, *et seq.*; N.J.S.A. 58:10-23.11u; N.J.S.A. 13:1D-150. Under the proposed Judicial Consent Order, the Chevron Settling Parties will pay a total of \$175,000.00 to NJDEP to resolve Chevron Settling Parties' statewide liability related to the Chevron Settling Parties' contribution to the injury of natural resources caused by MTBE contamination. The public will benefit from ensuring decreased MTBE concentrations in New Jersey's waters, including groundwater. Public trust resources are expected to return to pre-discharge condition, in part through monitored natural attenuation. The proposed settlement amount takes into consideration the Chevron Settling Parties' proportional responsibility based on their respective contribution to MTBE contamination across the State, including consideration of the number of gas stations and their MTBE distribution, as well as the Chevron Settling Parties' previous settlement agreements as part of the MDL.

In consideration of the valuation of natural resources injured by MTBE contamination, the Chevron Settling Parties' proportionate responsibility for that contamination, and the public trust benefits described herein, NJDEP, as trustee of the public's natural resources, believes that the proposed terms are fair, reasonable, faithful to the intent of the aforementioned statutes, and in the public interest. All settlement funds recovered for NRD, less the costs of the suit, legal, and administrative fees, will be held in NJDEP's dedicated NRD account subject to legislative appropriation for specific natural resource restoration activities in accordance with the New Jersey State Constitution, Article VIII, Section 2, Paragraph 9. NJDEP intends to conduct public outreach

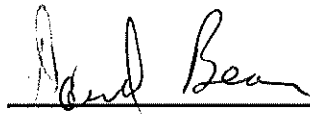
and engagement in the consideration and selection of restoration activities to be pursued with funds recovered by this settlement.

It is the intent of NJDEP and the Chevron Settling Parties that this Judicial Consent Order constitutes an administratively approved settlement for which NJDEP is seeking public comment pursuant to N.J.S.A. 58:10-23.11e2 for matters addressed in this Judicial Consent Order. It is the intent of the NJDEP and the Chevron Settling Parties that this Consent Judgment constitutes an administratively approved settlement within the meaning of N.J.S.A. 58:10-23.11f.a(2)(b) of the Spill Act for the purpose of providing protection from contribution actions or claims for matters addressed in the proposed Judicial Consent Order.

A copy of the proposed Judicial Consent Order is available for inspection online at <http://www.nj.gov/dep/nrr/settlements/index.html> and at the NJDEP Office of Record Access at 401 East State Street, Trenton, New Jersey. Requests to inspect a paper copy of the proposed Consent Judgment should be directed to records.custodian@dep.nj.gov. Interested persons may submit comments on the entry of this Judicial Consent Order to David Bean, Office of Natural Resource Restoration, NJDEP, 501 East State Street, Mail Code 501-03, P.O. Box 420, Trenton, NJ 08625-0420. Written comments on the entry of this Judicial Consent Order may also be submitted electronically to MTBESettlement@dep.nj.gov, referencing "MTBE Chevron Settlement" in the subject line of the e-mail. Electronically submitted comments must be provided as portable document format (PDF) files.

All comments must be submitted within 60 calendar days of the date of this public notice. NJDEP will consider all comments received and may decide to withdraw or withhold consent to

the entry of the Judicial Consent Order if comments received disclose facts or considerations that demonstrate that the Judicial Consent Order is inappropriate, improper, or inadequate.

A handwritten signature in black ink, appearing to read "David Bean", is positioned above a solid horizontal line.

Dated: October 18, 2023

David Bean
Bureau Chief, Office of Natural Resource
Restoration
New Jersey Department of Environmental
Protection