

No. 15-20030

**In the United States Court of Appeals
For the Fifth Circuit**

ENVIRONMENT TEXAS CITIZEN LOBBY,
INCORPORATED; SIERRA CLUB,
Plaintiffs – Appellants,

v.

EXXON MOBIL CORPORATION; EXXONMOBIL CHEMICAL
COMPANY; EXXONMOBIL REFINING & SUPPLY COMPANY,
Defendants – Appellees.

Appeal from the United States District Court for the
Southern District of Texas, Houston Division;
No. 4:10-CV-4969

**BRIEF OF AMICUS CURIAE
CITY OF BAYTOWN**

**IN SUPPORT OF APPELLEES EXXON MOBIL CORPORATION;
EXXONMOBIL CHEMICAL COMPANY; EXXONMOBIL REFINING &
SUPPLY COMPANY**

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IDENTITY AND INTEREST OF AMICUS CURIAE

The City of Baytown is a home-rule municipal corporation location in Harris and Chambers Counties, Texas, which was originally three separate cities, namely Goose Creek, Pelly, and Baytown, but was consolidated in 1948. The City of Baytown is home to ExxonMobil's Baytown Complex. The City of Baytown has developed an extensive relationship with the ExxonMobil Baytown Complex for nearly 100 years. The City believes ExxonMobil is a good corporate neighbor and works diligently to comply with the Clean Air Act and other regulations applicable to its business. ExxonMobil maintains open communications with respect to its environmental performance, timely notifies the City of potential compliance concerns that may impact the community and is engaged and responsive to the City of Baytown and its neighbors. It is for this reason that the City respectfully submits this brief of *amicus curiae*.

Council for all parties have stated that they consent to the filing of this amicus brief. This brief has not been authored, in whole or in part, by legal counsel representing a party to this suit. The author of this brief is a salaried employee of the City of Baytown, who has received no fee from any of the parties hereto for the preparation of this brief.

ARGUMENT

The United States District Court for the Southern District of Texas's ruling in favor of ExxonMobil should be upheld.

I. ExxonMobil's Presence in Baytown

ExxonMobil has operated in our Baytown community for more than 95 years. The City of Baytown has grown up around the ExxonMobil Complex, and it is an integral part of our community. ExxonMobil is an active community partner and participant. The company truly values the relationship they have with our community and it shows through their actions.

Year after year, ExxonMobil has consistently dedicated its time and resources to many important aspects of our community, including our local schools and college, the Baytown Nature Center, community organizations and various other entities and activities important to the City of Baytown. Their presence in Baytown has been acknowledged and appreciated by the City.

Throughout many years working together, we have continued to strengthen our relationship with ExxonMobil. They are a true community partner with whom we have established a positive, collaborative working relationship.

II. ExxonMobil's Operations

The City of Baytown believes ExxonMobil operates with high standards of integrity and commitment to ensure that its operations do not negatively impact human health and the environment. While ExxonMobil is not perfect, the City views ExxonMobil as an industry leader in making continuous efforts to improve its environmental performance and enhancing air quality in the Houston area.

This belief is based on the financial commitments ExxonMobil has put into environmental improvement projects, environmental progress reports it has prepared and presented to City officials over the years, and the overall satisfaction of community members as reflected by the limited number of concerns raised to the City about ExxonMobil.

Over the last ten years, ExxonMobil has consistently shown a downward trend in its emissions and continues to make investments to further reduce emissions, which in turn improves air quality. The Baytown area has sufficient monitoring in place to capture emissions from various sources, including the ExxonMobil Baytown Complex.

III. Transparent & Open Communications

Our relationship with ExxonMobil is one built on trust that has been developed through direct interactions and open communications with ExxonMobil representatives. ExxonMobil is proactive in its communications with us and interfaces with City officials through various events and functions each year.

ExxonMobil Baytown management, including the Public and Government Affairs Department, works hard to communicate and facilitate dialogue in our community. For example, ExxonMobil presents an environmental progress report to City officials on a periodic basis and provides various operational updates during the year, which includes an overview of ongoing environmental projects and turnaround activities.

ExxonMobil has also been proactive in working with the City to improve the quality of our community. With the strong industry presence in Baytown, beautification projects remain a top priority for the City. With the current ExxonMobil expansion project, the company worked diligently to plant hundreds of trees in a nearby park and around its facilities.

In addition to working with City officials, ExxonMobil values their relationships with our community. Over the years, the company spent considerable time and effort creating a greenbelt between its facilities and our

near neighbors to minimize potential impacts. They continue to work closely with their neighbors in an effort to maintain transparency by participating in civic association meetings and neighborhood events, as well as sending informative environmental brochures and letters in advance of planned activities that may impact our community.

ExxonMobil also participates in the Baytown Area Community Advisory Panel's (CAP) monthly meetings and provides updates on operations and environmental performance. The CAP is a partnership between industry and community representatives engaging in open, honest dialogue addressing mutual concerns about safety, health, security, emergency response, environment and economic well-being. The CAP exists to respond to community questions, share information, identify and address issues and provide facts and perspectives on areas of concern. Through interactions with the CAP, the City believes ExxonMobil maintains a strong relationship with the CAP and addresses the concerns raised by its members.

IV. ExxonMobil's Responsiveness

When issues arise, ExxonMobil is extremely responsive and makes every effort to notify City personnel of the issue and how they are managing the response. In order to continue to improve emergency response coordination with

the City, ExxonMobil engages our Local Emergency Planning Commission, Fire and Police departments to participate in drills several times a year.

The number of incidents at ExxonMobil is few and far between; however, when ExxonMobil does have an incident, they work to communicate quickly with the City and their neighbors and have a process in place to manage the incident effectively.

ExxonMobil utilizes a hotline to provide information on any issues at their facilities, and community members are able to call in day or night.

ExxonMobil has also developed a protocol for addressing community concerns. Residents may call the facility directly and speak to the site superintendent. After a call is received, ExxonMobil works to respond in a timely manner and take appropriate measures to address concerns raised. This system has proven effective as it is rare to receive concerns related to ExxonMobil operations in our City.

CONCLUSION

ExxonMobil has made continuous improvements in environmental performance over the past decade and remains committed to being an upstanding corporate citizen. As representative of the City and members of our community, it is our belief that ExxonMobil cares about our community and environment and works hard to be protective of its employees and community. The manner in

which ExxonMobil engages with the City and our community is the standard by which many in industry should follow. We have every confidence that ExxonMobil will continue to work diligently to comply with all laws applicable to its business and remain a trusted industry partner in the City of Baytown.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on the ___ day of September, 2015, a copy of the foregoing Brief of Amicus Curiae was filed electronically with the Clerk of the Court using the Court's ECF System. Notice of this filing will be sent electronically by operation of the Court's electronic filing system to all counsel of record:

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CERTIFICATE OF COMPLIANCE

Certificate of Compliance with Rule 32(a) Certificate of Compliance with Type-Volume Limitation, Typeface Requirements, and Type Style Requirements

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because: this brief contains 1,285 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because: this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2007 in Times New Roman 14 pt. font.

Dated: September __, 2015.



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