

Handwritten: *JS-6*

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DEC 1 1999
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

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BY DEPUTY

9 Attorneys for Plaintiff

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DEC 2 1999
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STATE OF CALIFORNIA,)
)
Plaintiff,)
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v.)
)
EXXON CORPORATION, a New Jersey)
corporation, and MOBIL)
CORPORATION, a Delaware)
corporation,)
)
Defendants.)

CIVIL ACTION NO.
CIV-99-12466 RSWL (AJWx)
CONSENT DECREE AND FINAL
JUDGMENT

ENTERED ON ICMS
DEC 2 1999
CV

Plaintiff, the State of California, filed its Complaint
herein and defendants, Exxon Corporation and Mobil Corporation
were duly served with copies of the Summons and Complaint.
Defendants, by and through their attorneys, have consented to the
entry of this Consent Decree and Final Judgment without trial or
adjudication of any issue of fact or law herein and have waived
notice of presentation of this Consent Decree and Final Judgment.

Docketed
Copies / NTC Sent
S-5/JS-6
S-2/JS-3
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1 This Consent Decree and Final Judgment does not constitute any
2 evidence against or an admission by any party with respect to any
3 issue of law or fact herein.

4 WHEREAS, defendants have agreed to be bound by the
5 provisions of this Consent Decree and Final Judgment and there is
6 no just reason for delay in its entry; and

7 WHEREAS, prompt and certain divestiture of assets and
8 the assignment of contracts are the essence of this agreement.
9 The parties intend to require defendants to divest or assign, as
10 viable lines of business or contractual rights, certain assets so
11 as to ensure that the assets will be maintained as competitive,
12 viable and ongoing. Defendants have represented to plaintiff that
13 the divestitures and assignments required below can and will be
14 made as provided in this Consent Decree and Final Judgment; and

15 WHEREAS, defendants have represented to plaintiff that
16 they can comply with the obligations set forth in this Consent
17 Decree and Final Judgment and full relief as provided in this
18 Consent Decree and Final Judgment can be accomplished;

19 NOW, THEREFORE, before the taking of any testimony, and
20 without trial or adjudication of any issue of fact or law herein,
21 and upon consent of the parties hereto, it is hereby

22 ORDERED, ADJUDGED, AND DECREED as follows:
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1 I.

2 JURISDICTION

3 This Court has jurisdiction over the subject matter of
4 this action and over each of the parties hereto. The Complaint
5 states a claim upon which relief may be granted against the
6 Defendants under Section 7 of the Clayton Act, as amended (15
7 U.S.C. § 18), Sections 1 and 2, of the Sherman Act, (15 U.S.C. §§
8 1 and 2), and California Business and Professions Code §§ 17200
9 et seq. The Attorney General for the State of California, Bill
10 Lockyer, has authority to bring this action pursuant to Section
11 16 of the Clayton Act (15 U.S.C. § 26) and California Business
12 and Professions Code §§ 17204 and 17206.

13 II.

14 DEFINITIONS

15 As used in this Consent Decree and Final Judgment and
16 Final Judgment:

- 17 A. "Exxon" means Exxon Corporation, its directors,
18 officers, employees, agents and representatives,
19 predecessors, successors, and assigns; its joint
20 ventures, subsidiaries, divisions, groups and
21 affiliates controlled by Exxon, and the respective
22 directors, officers, employees, agents,
23 representatives, successors, and assigns of each.
- 24 B. "Mobil" means Mobil Corporation, its directors,
25 officers, employees, agents and representatives,
26 predecessors, successors, and assigns; its joint
27 ventures, subsidiaries, divisions, groups and
28 affiliates controlled by Mobil and the respective

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directors, officers, employees, agents,
representatives, successors, and assigns of each.

C. "Exxon Mobil" means Exxon Mobil Corporation, or any other entity resulting from the merger involving Exxon and Mobil, its directors, officers, employees, agents and representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries, divisions, groups and affiliates controlled by Exxon Mobil and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

D. "Defendants" means Exxon and Mobil, individually and collectively, and the successor corporation (to be known as Exxon Mobil Corporation).

E. "ANS" means the North Slope of Alaska.

F. "Branded Fuels" means motor gasoline or diesel fuel sold at a Retail Site under a brand name owned by Defendants.

G. "Branded Products" means any product other than Branded Fuels that is sold at a Retail Site under a brand name owned by Defendants.

H. "Business Format Franchise" shall have the meaning of "franchise" set forth in 16 C.F.R. § 436.2, excluding franchises granted by Defendants to sell Branded Fuels.

I. "California-North MSAs" means the following primary metropolitan statistical areas in California as defined by the Census Bureau as of September 30, 1999:
Oakland, San Francisco, San Jose, and Santa Rosa.

J. "Commission" means the Federal Trade Commission

- 1 K. "Commission Consent Order" means FTC file No 991-0077,
2 In the Matter of Exxon Corporation, a corporation, and
3 Mobil Corporation, Agreement Containing Consent Orders,
4 dated Nov. 30 ^{MSA}, 1999.
- 5 L. "Effective Date of Divestiture" means the date on which
6 the applicable divestiture is consummated.
- 7 M. "Existing Lessee Agreements" means all agreements
8 between Defendants and any Exxon or Mobil Lessee Dealer
9 relating to such person's right or obligation to sell
10 or resell Branded Fuels using Exxon's brand name or
11 Mobil's brand name at a Retail Site, including without
12 limitation each Branded Fuels dealer lease agreement
13 and dealer sales agreement. "Existing Lessee
14 Agreements" does not include Business Format
15 Franchises.
- 16 N. "Existing Supply Agreements" means all agreements
17 between Defendants and Exxon Branded Sellers or Mobil
18 Branded Sellers relating to such person's right or
19 obligation to sell or resell Branded Fuels using
20 Exxon's brand name or Mobil's brand name at a Retail
21 Site, including without limitation each Branded Fuels
22 supply contract, distributor agreement, dealer
23 agreement, image agreement, amortization agreement and
24 jobber outlet incentive program contract. "Existing
25 Supply Agreements" does not include Business Format
26 Franchises.
- 27 O. "Exxon Benicia Refinery Assets" means Exxon's refinery
28 located at Benicia, California and all of Exxon's

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interest in all tangible assets used in the operation of the refinery; all licenses, agreements, contracts, and permits used in the operation of the refinery; the non-exclusive right to use all patents, know-how, and other intellectual property used by Exxon in the operation of the refinery; at the acquirer's option, all contracts, agreements or understandings relating to the transportation, terminaling, storage or sale of the refinery's petroleum product output; at the acquirer's option, all agreements under which Exxon receives crude oil or other inputs at or for the refinery; and, at the acquirer's option, all exchange agreements involving the refinery. "Exxon Benicia Refinery Assets" also includes all plans (including proposed and tentative plans, whether or not adopted), specifications, drawings, and other assets (including the non-exclusive right to use patents, know-how, and other intellectual property relating to such plans) related to the operation of, and improvements, modifications, or upgrades to, the Benicia refinery. "Exxon Benicia Refinery Assets" also includes, but is not limited to, all of Exxon's interest in the 20" crude pipeline between the Equilon pigging station and the refinery, the 6" pipeline between Bullshead Point and the refinery, the dock on the Carquinez Strait associated with the refinery, all pipelines running between the dock and the refinery, the refined products terminal adjacent to the refinery, and the coke silo leased from

1 Benicia Industries and used by the refinery. "Exxon
2 Benicia Refinery Assets" does not include Exxon's
3 proprietary trade names and trademarks. In the event
4 that Defendants are unable to satisfy all conditions
5 necessary to divest any intangible asset, Defendants
6 shall: (1) with respect to permits, licenses or other
7 rights granted by governmental authorities (other than
8 patents), provide such assistance as the acquirer may
9 reasonably request in the acquirer's efforts to obtain
10 comparable permits, licenses or rights, and (2) with
11 respect to other intangible assets (including patents),
12 substitute equivalent assets, subject to approval of
13 Plaintiff. A substituted asset will not be deemed to
14 be equivalent unless it enables the refinery to perform
15 the same function at the same or less cost.

16 P. "Exxon Branded Seller" means any person (other than
17 Exxon or Mobil) that has, by virtue of contract or
18 agreement with Exxon in effect as of the Reference
19 Date, the right to sell gasoline using Exxon's brand
20 name at Retail Sites, or to resell gasoline to any such
21 person. "Exxon Branded Seller" includes distributors,
22 jobbers, contract dealers, and open dealers, but does
23 not include Lessee Dealers.

24 Q. "Exxon California-North Marketing Assets" means all
25 Retail Assets in California-North MSAs that are owned
26 by Exxon or leased by Exxon from another Person as of
27 the Reference Date.

28 R. "Exxon California-South Marketing Assets" means all

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Retail Assets in portions of California other than California-North MSAs, that are owned by Exxon or leased by Exxon from another Person as of the Reference Date.

S. "Exxon California Refining and Marketing Assets" means the (1) Exxon Benicia Refinery Assets; (2) Exxon California-North Marketing Assets; and (3) Exxon California-South Marketing Assets.

T. "Reference Date" means November 30, 1999.

U. "Lessee Dealer" means a dealer who operates a Retail Site leased from Defendants under a lease in effect as of the Reference Date.

V. "MBD" means thousands of barrels per day.

W. "Merger" means the proposed merger involving Exxon and Mobil.

X. "Mobil Branded Seller" means any Person (other than Exxon or Mobil) that has, by virtue of contract or agreement with Mobil in effect as of the Reference Date, the right to sell gasoline using Mobil's brand name at Retail Sites, or to resell gasoline to any such person. "Mobil Branded Seller" includes distributors, jobbers, contract dealers, and open dealers, but excludes Lessee Dealers.

Y. "Mobil California Marketing Assets" means all Retail Assets in California that are owned by Mobil or leased by Mobil from another Person as of the Reference Date.

Z. "Mobil California Refining and Marketing Assets" means the (1) Mobil Torrance Refinery Assets and (2) Mobil

1 California Marketing Assets.

2 AA. "Mobil Torrance Refinery Assets" means Mobil's refinery
3 located at Torrance, California, and all of Mobil's
4 interest in all tangible assets used in the operation
5 of the refinery; all licenses, agreements, contracts,
6 and permits used in the operation of the refinery; the
7 non-exclusive right to use all patents, know-how, and
8 other intellectual property used by Mobil in the
9 operation of the refinery; at the acquirer's option,
10 all contracts, agreements or understandings relating to
11 the transportation, terminaling, storage or sale of the
12 refinery's petroleum product output; at the acquirer's
13 option, all agreements under which Mobil receives crude
14 oil or other inputs at or for the refinery; and, at the
15 acquirer's option, all exchange agreements involving
16 the refinery. "Mobil Torrance Refinery Assets" also
17 includes all plans (including proposed and tentative
18 plans, whether or not adopted), specifications,
19 drawings, and other assets (including the non-exclusive
20 right to use patents, know-how, and other intellectual
21 property, relating to such plans) related to the
22 operation of, and improvements, modifications, or
23 upgrades to, the Torrance refinery. "Mobil Torrance
24 Refinery Assets" also includes, but is not limited to,
25 all of Mobil's interest in the SJV crude pipeline
26 system between Lost Hills, California, and the refinery
27 (M-70); the Southwest Terminal in Los Angeles Harbor
28 (including the dock, tanks, and other facilities

1 located at the terminal); all crude (M-146) and
2 products pipelines running between the Southwest
3 Terminal and the refinery; the products pipeline
4 between the refinery and Kinder Morgan's Watson
5 Terminal; the Mobil Pacific Pipe Line Company products
6 pipeline between the GATX terminal and the refinery;
7 the jet fuel pipeline between the refinery and Los
8 Angeles International Airport; Mobil Pacific Pipeline's
9 interest in the THUMS Wilmington Crude Gathering System
10 between the Wilmington Field and the refinery (M-131,
11 M-132, M-142); and the Torrance crude system (M-134, M-
12 135). "Mobil Torrance Refinery Assets" does not
13 include Mobil's proprietary trade names and trademarks.
14 In the event that Defendants are unable to satisfy all
15 conditions necessary to divest any intangible asset,
16 Defendants shall: (1) with respect to permits, licenses
17 or other rights granted by governmental authorities
18 (other than patents), provide such assistance as the
19 acquirer may reasonably request in the acquirer's
20 efforts to obtain comparable permits, licenses or
21 rights, and (2) with respect to other intangible assets
22 (including patents), substitute equivalent assets,
23 subject to approval of Plaintiff. A substituted asset
24 will not be deemed to be equivalent unless it enables
25 the refinery to perform the same function at the same
26 or less cost.

27 BB. "Person" means any individual, partnership,
28 association, company or corporation.

1 CC. "Retail Assets" means, for each Retail Site, all fee
2 and leasehold interest of Defendants in the Retail
3 Site, and all of Defendants' interest in all assets,
4 tangible or intangible, that are used at that Retail
5 Site, including but not limited to all permits,
6 licenses, consents, contracts, and agreements used in
7 the operation of the Retail Site and the non-exclusive
8 right to use all patents, know-how, and other
9 intellectual property used by Defendants in the
10 operation of the Retail Site. "Retail Assets" also
11 includes all fee and leasehold interests of Defendants
12 in real property that as of October 1, 1999 was
13 intended for use by Defendants as a Retail Site, and
14 all permits, licenses, consents, contracts, and
15 agreements intended for use or used with respect to
16 that real property. "Retail Assets" also includes all
17 of Defendants' interest in all assets relating to all
18 ancillary businesses (including, but not limited to,
19 automobile mechanical service, convenience store,
20 restaurant or car wash) located at each Retail Site,
21 including all permits, licenses, consents, contracts,
22 and agreements used in the operation of the ancillary
23 businesses. "Retail Assets" also include, at the
24 acquirer's option, all assets used to supply the Retail
25 Sites owned by Defendants from terminals, including all
26 tank trucks, and all contracts with all other Persons
27 for supplying the Retail Sites. "Retail Assets" do not
28 include Defendants' proprietary trademarks, trade

1 names, logos, trade dress, identification signs,
2 additized product inventory, petroleum franchise
3 agreements, Business Format Franchise agreements,
4 petroleum product supply agreements, credit card
5 agreements, satellite-based or centralized credit card
6 processing equipment not incorporated in gasoline
7 dispensers, system-wide software and databases, or,
8 except as provided above, patents, know-how, or other
9 intellectual property. In the event that Defendants
10 are unable to satisfy all conditions necessary to
11 divest any intangible asset, Defendants shall (1) with
12 respect to permits, licenses or other rights granted by
13 governmental authorities, provide such assistance as
14 the acquirer may reasonably request in the acquirer's
15 efforts to obtain the comparable permits, licenses or
16 rights, and (2) with respect to other intangible
17 assets, substitute equivalent assets, subject to
18 approval of Plaintiff. A substituted asset will not be
19 deemed to be equivalent unless it enables the Retail
20 Site to perform the same function at the same or less
21 cost.

22 DD. "Retail Site" means a business establishment from which
23 gasoline is sold to the general public.

24 EE. "West Coast of the United States" means the states of
25 California, Washington and Oregon.

26 III.

27 APPLICABILITY

28 A. The provisions of this Consent Decree and Final

1 Judgment apply to the defendants, their successors and assigns,
2 their subsidiaries, affiliates, directors, officers, managers,
3 agents, and employees, and all other persons in active concert or
4 participation with any of them who have received actual notice of
5 this Consent Decree and Final Judgment Decree by personal service
6 or otherwise.

7 B. Nothing herein shall suggest that any portion of
8 this Consent Decree and Final Judgment is or has been created for
9 the benefit of any third party and nothing herein shall be
10 construed to provide any rights to third parties.

11 IV.

12 DIVESTITURE OF ASSETS

13 A. Defendants shall divest the Exxon California
14 Refining and Marketing Assets to a single acquirer, absolutely
15 and in good faith and at no minimum price, within twelve (12)
16 months from the Reference Date.

17 B. Defendants shall, upon the Effective Date of
18 Divestiture of the Exxon California Refining and Marketing
19 Assets, assign to the acquirer of the Exxon California Refining
20 and Marketing Assets (1) all Existing Lessee Agreements with
21 respect to the Exxon California-South Marketing Assets in effect
22 as of the Effective Date of Divestiture of the Exxon California
23 Refining and Marketing Assets, subject to any applicable right of
24 first refusal under California law exercisable by Exxon's Lessee
25 Dealers that operate Retail Sites being divested, and (2) all
26 Existing Supply Agreements between Exxon and Exxon Branded
27 Sellers in effect as of the Effective Date of Divestiture of the
28 Exxon California Refining and Marketing Assets with respect to

1 Retail Sites in California other than the California-North MSAs.
2 C. Defendants shall, upon the Effective Date of
3 Divestiture of the Exxon California Refining and Marketing
4 Assets, enter into an agreement with the acquirer of the Exxon
5 California Refining and Marketing Assets, which shall be
6 effective upon the Effective Date of Divestiture of the Exxon
7 California Refining and Marketing Assets, pursuant to which the
8 acquirer of the Exxon California Refining and Marketing Assets
9 will receive, for a period of ten (10) years from the Effective
10 Date of Divestiture of the Exxon California Refining and
11 Marketing Assets: (1) the exclusive right to sell Branded Fuels
12 under the Exxon brand in California other than in the California-
13 North MSAs, except as permitted by paragraphs IV.J. and IV.K.,
14 and (2) the exclusive right to use Exxon's brand name in
15 connection with the sale of Branded Fuels under the Exxon brand
16 in California other than in the California-North MSAs, including
17 the exclusive rights to use Exxon's identification signs,
18 trademarks, and other trade indicia, and the non-exclusive right
19 to accept and process Exxon credit cards in connection with such
20 sales of Exxon Branded Fuels. Such agreement shall provide for
21 the provision of credit card services, additive, and such brand
22 support as the acquirer may choose to purchase and may provide
23 for payments covering Defendants' costs in connection with the
24 provision of credit card services, additive, and such brand
25 support as the acquirer may choose to purchase. The agreement
26 shall not provide for any payment by the acquirer to Defendants
27 for the use of the brand name for the first five years of the
28 agreement, but may provide for additional payments, beginning

1 five (5) years after the Effective Date of Divestiture of the
2 Exxon California Refining and Marketing Assets and escalating
3 each year until the end of the ten (10) year term, by the
4 acquirer to Defendants for the use of Exxon's identification
5 signs, trademarks, and other trade indicia. Acquirer's payments
6 for credit card services, additive and the use of Exxon's brand,
7 but not including such other brand support as acquirer may choose
8 to purchase, shall not exceed 2.5 cents per gallon, except that
9 the agreement may provide for an annual minimum payment to which
10 the Defendants and the acquirer agree. At the end of the ninth
11 year after the Effective Date of Divestiture of the Exxon
12 California Refining and Marketing Assets, Defendants shall offer
13 to meet with the acquirer to discuss a renewal of the agreement.

14 D. Defendants shall, upon the Effective Date of
15 Divestiture of the Exxon California Refining and Marketing
16 Assets, at the acquirer's option, also enter into an agreement
17 with the acquirer of the Exxon California Refining and Marketing
18 Assets, which shall be effective upon the Effective Date of
19 Divestiture of the Exxon California Refining and Marketing
20 Assets, that requires Defendants to supply the acquirer ANS crude
21 oil in ratable quantities of up to 100 MBD for up to ten (10)
22 years.

23 E. Defendants shall offer the acquirer of the Exxon
24 California Refining and Marketing Assets an indemnity, to be
25 effective upon the Effective Date of Divestiture of the Exxon
26 California Refining and Marketing Assets, which indemnity shall
27 allocate among Defendants and the acquirer, on such terms as the
28 Defendants and the acquirer agree, responsibility with respect to

1 potential claims and liabilities arising out of failure to comply
2 with local, state, and federal environmental obligations in
3 connection with the Benicia refinery and the Retail Sites that
4 are divested or assigned pursuant to this Paragraph.

5 F. Defendants shall divest the Exxon California
6 Refining and Marketing Assets, assign the Existing Lessee
7 Agreements and Existing Supply Agreements, and enter into the
8 agreements as required by subparagraphs IV.A., IV.B., IV.C.,
9 IV.D., and IV.E. only to a single acquirer that receives the
10 prior approval of the Plaintiff and only in a manner that
11 receives the prior approval of the Plaintiff. The Exxon
12 California-North Marketing Assets shall be divested only to a
13 person that commits to offer each of Exxon's Lessee Dealers that
14 operate a Retail Site being divested a non-discriminatory
15 franchise within the meaning of the Petroleum Marketing
16 Practices Act, 15 U.S.C. § 2801, et seq.

17 G. No later than the Effective Date of Divestiture of
18 the Exxon California Refining and Marketing Assets, Defendants
19 shall cancel all Existing Lessee Agreements and Existing Supply
20 Agreements between Exxon and Exxon Lessee Dealers and Exxon
21 Branded Sellers with respect to Retail Sites in the California-
22 North MSAs in effect as of the Effective Date of Divestiture of
23 the Exxon California Refining and Marketing Assets.

24 H. Notwithstanding subparagraphs IV.A. and IV.F, the
25 divestiture of the Exxon California-South Marketing Assets shall
26 be subject to any applicable right of first refusal under
27 California law exercisable by Exxon's Lessee Dealers that operate
28 assets being divested. Defendants shall not attempt in any way

1 to persuade or encourage Exxon Lessee Dealers to exercise such
2 right. Defendants shall not, for a period of seven (7) years
3 from the Effective Date of Divestiture of the Exxon California
4 Refining and Marketing Assets, sell Branded Fuels to any Lessee
5 Dealer that exercises such right.

6 I. Upon the Effective Date of Divestiture of the
7 Exxon California Refining and Marketing Assets, Defendants shall
8 allow the acquirer of the Exxon California Refining and Marketing
9 Assets the non-exclusive right to sell other Exxon Branded
10 Products (e.g., motor oil) at the acquirer's Exxon branded Retail
11 Sites in California. The acquirer's access to all such other
12 products or services acquired from Defendants for resale at such
13 Retail Sites shall be on commercial, arm's length terms no less
14 favorable than those given by Defendants to other wholesale
15 purchasers. Upon the Effective Date of Divestiture of the Exxon
16 California Refining and Marketing Assets, Defendants shall allow
17 an Exxon Branded Seller or Exxon Lessee Dealer that was Exxon's
18 franchisee with respect to a Business Format Franchise as of the
19 Effective Date of Divestiture of the Exxon California Refining
20 and Marketing Assets to continue as Defendants' franchisee with
21 respect to such Business Format Franchise. Defendants shall not
22 object to an assumption by the acquirer of Defendants'
23 obligations as Business Format Franchisee, subject to any
24 applicable approvals required of the Business Format Franchisor.

25 J. Defendants shall not (1) sell or attempt to sell,
26 for twelve (12) years from the Effective Date of Divestiture of
27 the Exxon California Refining and Marketing Assets, Branded Fuels
28 under the Exxon brand for sale or resale at Retail Sites in

1 California; provided, however, that Defendants may sell to the
2 acquirer of the Exxon California Refining and Marketing Assets
3 quantities of Branded Fuels equal to quantities of unadditized
4 gasoline sold to Defendants by the acquirer for purposes of
5 adding Exxon's proprietary additive and making the gasoline
6 salable by acquirer as Exxon Branded Fuels; or (2) sell or
7 attempt to sell, for seven (7) years from the Effective Date of
8 Divestiture of the Exxon California Refining and Marketing
9 Assets, Branded Fuels under the Mobil brand to any Exxon Branded
10 Seller or Exxon Lessee Dealer for resale at any Retail Site in
11 California that sold Exxon Branded Fuels as of the Reference
12 Date. This subparagraph shall not prohibit sales, solicitations,
13 discussions or negotiations involving brands other than the Exxon
14 brand with respect to Retail Sites that were not Exxon branded
15 Retail Sites as of the Reference Date.

16 K. Notwithstanding the provisions of subparagraphs
17 IV.C. and IV.J., in the event that the acquirer of the Exxon
18 California Refining and Marketing Assets ceases using the Exxon
19 brand in California pursuant to the agreement conveying the right
20 to use the brand described in subparagraph IV.C., Defendants
21 shall have the right to use the brand in California beginning two
22 (2) years after the acquirer of the Exxon California Refining and
23 Marketing Assets ceases to use the brand in California, but in no
24 event prior to five (5) years after the Effective Date of
25 Divestiture of the Exxon California Refining and Marketing
26 Assets.

27 L. Until the Effective Date of Divestiture of the
28 Exxon California Refining and Marketing Assets, Defendants shall

1 take such actions as are necessary to maintain the viability and
2 marketability of the Exxon California Refining and Marketing
3 Assets and to prevent the destruction, removal, wasting,
4 deterioration, or impairment of any of the assets, except for
5 ordinary wear and tear, including, but not limited to, continuing
6 in effect and maintaining all proprietary trademarks, trade
7 names, logos, trade dress, identification signs owned by Exxon,
8 Business Format Franchise agreements, and renewing or extending
9 any base leases or ground leases that expire or terminate prior
10 to the Effective Date of Divestiture of the Exxon California
11 Refining and Marketing Assets. Until the assignments of Existing
12 Supply Agreements provided by subparagraph IV.B. occur,
13 Defendants shall not attempt in any way to encourage any Exxon
14 Branded Seller to terminate, nor shall Defendants terminate
15 (except for reasons set out in § 2802(c) of the Petroleum
16 Marketing Practices Act, 15 U.S.C. § 2802(c)), an Existing Supply
17 Agreement with respect to a Retail Site in California, and
18 Defendants shall continue in effect all programs and other
19 business practices aimed at maintaining existing relationships
20 with Exxon Branded Sellers with respect to Retail Sites in
21 California other than in the California-North MSAs and shall
22 otherwise seek to preserve such relationships as diligently as
23 was done prior to the Reference Date.

24 M. The purpose of the divestiture of the Exxon
25 California Refining and Marketing Assets and the assignment of
26 the Existing Supply Agreements between Exxon and Exxon Branded
27 Sellers in California, and of the other provisions of this
28 Paragraph, is to ensure the continued use of the assets

1 comprising Exxon's California refining and marketing businesses
2 as viable, on-going businesses, in the same businesses in which
3 they were engaged at the time of the announcement of the Merger,
4 that is, the refining and marketing of CARB gasoline and other
5 petroleum products, by a firm that has a sufficient ability and
6 an equivalent incentive to invest and compete in the assets and
7 businesses as Exxon had before the Merger, and to remedy the
8 lessening of competition in the refining and marketing of CARB
9 gasoline and other petroleum products resulting from the proposed
10 Merger as alleged in the Plaintiff's Complaint.

11 N. Plaintiff's decision to approve or disapprove a
12 proposed divestiture and acquirer shall be based only upon the
13 following criteria: (1) whether the acquirer has the managerial,
14 operational, and financial capability to compete effectively as a
15 viable, ongoing refiner and marketer of CARB gasoline; (2)
16 whether the acquirer intends to use the assets to be divested for
17 the purpose of competing effectively in the refining and
18 marketing of CARB gasoline; and (3) whether the acquisition of
19 the divested assets will not adversely affect competition.
20 Defendants, in their notification pursuant to Paragraph VI or
21 otherwise, shall establish to the satisfaction of the Plaintiff
22 that a proposed divestiture and acquirer satisfy the criteria set
23 forth above.

24 O. Defendants shall take all reasonable steps to
25 accomplish quickly the divestitures contemplated by this Consent
26 Decree and Final Judgment.

27 P. Within sixty (60) days after the date this Consent
28 Decree becomes final and every sixty (60) days thereafter until

1 Defendants have fully complied with the provisions of Paragraphs
2 IV(A)-(L) of this Consent Decree, Defendants shall submit to the
3 Plaintiff a verified written report setting forth in detail the
4 manner and form in which they intend to comply, are complying,
5 and have complied with these Paragraphs. Defendants shall
6 include in their compliance reports, among other things that are
7 required from time to time, a full description of the efforts
8 being made to comply with these Paragraphs, including a
9 description of all substantive contacts or negotiations for the
10 divestitures and the identity of all parties contacted.
11 Defendants shall include in their compliance reports copies of
12 all written communications to and from such parties, all internal
13 memoranda, and all reports and recommendations concerning
14 divestiture.

15 Q. Following divestiture, for a period of ten years,
16 defendants, either individually or jointly, shall not, without
17 providing thirty (30) days advance written notice to the
18 plaintiff, acquire directly or indirectly, through subsidiaries,
19 partnerships or otherwise: (a) a refinery located on the West
20 Coast of the United States which produces CARB gasoline or CARB
21 feedstocks; (b) a 5% interest in any concern, corporate or non-
22 corporate, that owns a refinery located on the West Coast of the
23 United States which produces CARB gasoline or CARB feedstocks,
24 excluding investments made by Respondents' employee benefits
25 plans. If, within the thirty days after receiving such notice
26 plaintiff makes a reasonable written request for material
27 additional information or documentation, defendants shall not
28 consummate the transaction until twenty (20) days after

1 submitting such additional information or documentation.

2 V.

3 APPOINTMENT OF TRUSTEE

4 A. In the event that Defendants have not divested the
5 Exxon California Refining and Marketing Assets within the
6 Divestiture Period and that time has not been extended pursuant
7 to this Consent Decree or by Plaintiff in writing, Plaintiff, in
8 consultation with the FTC, may apply to the Court to appoint a
9 trustee or trustees to effectuate the divestiture, assign all
10 agreements, and effectuate all other provisions of the applicable
11 paragraph or paragraphs; provided, however, that the trustee may,
12 subject to the approval of the Plaintiff, substitute the Mobil
13 California Refining and Marketing Assets, and the applicable
14 brand name. Plaintiff shall provide to the defendants and to the
15 Commission notice of any application to the Court for the
16 appointment of a trustee.

17 Provided, further, however, that if within the
18 applicable time period Defendants have divested and assigned
19 rights with respect to at least 95% of the Retail Sites in
20 California as to which divestiture or assignment is required and
21 Defendants have been enjoined by any court from divesting or
22 assigning, or have been prevented from divesting or assigning
23 despite attempting in good faith to complete such divestitures or
24 assignments, the remaining 5% of the Retail Sites required to be
25 divested and assigned, Defendants shall have an additional six
26 (6) months to complete the required divestitures and assignments
27 and Defendants' failure to have completed the divestitures and
28 assignments with respect to the remaining Retail Sites shall not

1 constitute non-compliance for purposes of this Consent Decree
2 until the expiration of the additional six (6) month period. If
3 Defendants have not divested the remaining assets or assigned the
4 applicable Existing Lessee Agreements or Existing Supply
5 Agreements by the end of the extended period, the Plaintiff may
6 appoint a person or persons to act as trustee (or trustees)
7 pursuant to this paragraph to divest those remaining assets and
8 not the substitute assets described above in this subparagraph.

9 B. In the event that Plaintiff brings an action to
10 enforce this Consent Decree, Defendants shall consent to the
11 appointment of a trustee in such action. Neither the appointment
12 of a trustee nor a decision not to appoint a trustee under this
13 Paragraph shall preclude the Plaintiff from seeking civil
14 penalties or any other relief available to it, including a court-
15 appointed trustee, for any failure by the Defendants to comply
16 with this Consent Decree.

17 C. If a trustee is appointed by this Court pursuant
18 to Paragraph V of this Consent Decree, Defendants shall consent
19 to the following terms and conditions regarding the trustee's
20 powers, duties, authority, and responsibilities:

21 1. Subject to the approval of this Court,
22 Plaintiff shall select, in consultation with the Commission, a
23 person or persons as trustee, subject to the consent of
24 Defendants, which consent shall not be unreasonably withheld.
25 The trustee shall be a person with experience and expertise in
26 acquisitions and divestitures. If Defendants have not opposed in
27 writing, including the reasons for opposing, the selection of any
28 proposed trustee within ten (10) days after notice by Plaintiff

1 to Defendants of the identity of any proposed trustee, Defendants
2 shall be deemed to have consented to the selection of the
3 proposed trustee.

4 2. Subject to the prior approval of the
5 Plaintiff, the trustee shall have the exclusive power and
6 authority to divest the assets to be divested, assign the
7 agreements required to be assigned, and enter into the required
8 agreements, thereby binding Defendants, all on such terms and
9 conditions as are necessary to comply with the requirements of
10 the applicable paragraph, to comply with all applicable laws, and
11 to effectuate the remedial purposes of this Consent Decree.

12 3. Within ten (10) days after appointment of the
13 trustee, Defendants shall execute a trust agreement that, subject
14 to the prior approval of the Plaintiff and this Court, transfers
15 to the trustee all rights and powers necessary to permit the
16 trustee to effect the divestitures required by this Consent
17 Decree.

18 4. The trustee shall have twelve (12) months
19 from the date the Plaintiff and this Court approve the trust
20 agreement described in Paragraph V(C) (3) to accomplish the
21 divestiture, which shall be subject to the prior approval of the
22 Plaintiff. If, however, at the end of the twelve-month period,
23 the trustee has submitted a plan of divestiture or believes that
24 divestiture can be achieved within a reasonable time, the
25 divestiture period may be extended by the Plaintiff.

26 5. The trustee shall have full and complete
27 access to the personnel, books, records and facilities related to
28 the assets to be divested or to any other relevant information,

1 as the trustee may request. Defendants shall develop such
2 financial or other information as such trustee may request and
3 shall cooperate with the trustee. Defendants shall take no
4 action to interfere with or impede the trustee's accomplishment
5 of the divestiture. Any delays in divestiture caused by
6 Defendants shall extend the time for divestiture under this
7 Paragraph in an amount equal to the delay, as determined by the
8 Plaintiff.

9 6. The trustee shall use his or her best efforts
10 to negotiate the most favorable price and terms available in each
11 contract that is submitted to the Plaintiff, subject to
12 Defendants' absolute and unconditional obligation to divest
13 expeditiously at no minimum price. The divestiture shall be made
14 in the manner and to the acquirer or acquirers as approved by the
15 Plaintiff; provided, however, if the trustee receives bona fide
16 offers from more than one acquiring entity, and if the Plaintiff
17 determine to approve more than one such acquiring entity, the
18 trustee shall divest to the acquiring entity or entities selected
19 by Defendants from among those approved by the Plaintiff,
20 provided further, however, that Defendants shall select such
21 entity within five (5) days of receiving notification of the
22 Plaintiff's approval.

23 7. The trustee shall serve, without bond or
24 other security, at the cost and expense of Defendants, on such
25 reasonable and customary terms and conditions as this Court may
26 set. The trustee shall have the authority to employ, at the cost
27 and expense of Defendants, such consultants, accountants,
28 attorneys, investment bankers, business brokers, appraisers, and

1 other representatives and assistants as are necessary to carry
2 out the trustee's duties and responsibilities. The trustee shall
3 account for all monies derived from the divestiture and all
4 expenses incurred. After approval by the Plaintiff and this
5 Court, of the account of the trustee, including fees for his or
6 her services, all remaining monies shall be paid at the direction
7 of the Defendants, and the trustee's power shall be terminated.
8 The trustee's compensation shall be based at least in significant
9 part on an arrangement contingent on the trustee's divesting the
10 assets to be divested.

11 8. Defendants shall indemnify the trustee and
12 hold the trustee harmless against any losses, claims, damages,
13 liabilities, or expenses arising out of, or in connection with,
14 the performance of the trustee's duties, including all reasonable
15 fees of counsel and other expenses incurred in connection with
16 the preparation for, or defense of any claim, whether or not
17 resulting in any liability, except to the extent that such
18 liabilities, losses, damages, claims, or expenses result from
19 misfeasance, gross negligence, willful or wanton acts, or bad
20 faith by the trustee.

21 9. If the trustee ceases to act or fails to act
22 diligently, a substitute trustee shall be appointed in the same
23 manner as provided in Paragraph V(A) of this Consent Decree.

24 10. Plaintiff may, on its own initiative or at
25 the request of the trustee, request that the Court issue such
26 additional orders as may be necessary or appropriate to
27 accomplish the divestitures required by this Consent Decree.

28 11. The trustee shall have no obligation or

1 authority to operate or maintain the assets to be divested.

2 12. The trustee shall report in writing to
3 Defendants and the Plaintiff every sixty (60) days concerning the
4 trustee's efforts to accomplish the divestitures.

5 VI.

6 NOTIFICATION OF PROPOSED DIVESTITURE

7 A. Within five (5) business days following execution
8 of a letter of intent or a definitive agreement for sale of the
9 Exxon California Refining and Marketing Assets, defendants or the
10 trustee, whichever is then responsible for effecting the
11 divestiture required herein, shall notify the Plaintiff of any
12 proposed divestiture required by this Consent Decree and Final
13 Judgment.

14 B. If the trustee is responsible, he or she shall
15 likewise notify defendants. The notice provided by the trustee
16 shall set forth the details of the proposed transaction and list
17 the name, address, and telephone number of each person not
18 previously identified who offered or expressed an interest in or
19 desire to acquire any ownership interest in the divestiture
20 assets, together with full details of the same.

21 C. Within fifteen (15) days after receipt of the
22 notice, the Plaintiff may request additional information
23 concerning the proposed divestiture, the proposed purchaser, and
24 any other potential purchaser. Defendants or the trustee shall
25 furnish the additional information within fifteen (15) days of
26 the receipt of the request. Within thirty (30) days after
27 receipt of the notice or within fifteen (15) days after receipt
28 of the additional information, whichever is later, the Plaintiff

1 shall notify in writing Defendants and the trustee, if there is
2 one, if it objects to the proposed divestiture and set forth the
3 reasons for such objection. If the Plaintiff fails to object
4 within the period specified, or if the Plaintiff notifies in
5 writing Defendants and the trustee, if there is one, that it does
6 not object, then the divestiture may be consummated. Upon
7 objection by the Plaintiff, or by Defendants in the case of a
8 divestiture proposed by the trustee, the proposed divestiture
9 shall not be accomplished unless approved by the Court.

10 VII.

11 TOLLING OF TIME

12 In the event that (1) defendants enter into the
13 Commission Consent Order; (2) defendants, within the time period
14 required under this Consent Decree and Final Judgment, have
15 submitted a complete application for approval of the divestiture
16 of the Exxon California Refining and Marketing Assets; (3)
17 plaintiff has approved the divestiture of the Exxon California
18 Refining and Marketing Assets and has not withdrawn its approval;
19 (4) the defendants have submitted a timely and complete
20 application for approval of the divestiture of the Exxon
21 California Refining and Marketing Assets to the Commission; but
22 (5) the Commission has failed or refused to approve the proposed
23 divestiture, then the time in which the divestiture shall be
24 completed shall be extended (a) for ninety (90) days or (b) until
25 the Commission has made a determination pertaining to the
26 proposed divestiture or other relief, whichever is later. During
27 such period of extension, the Defendants shall exercise the
28 utmost good faith and best efforts to resolve the concerns of the

1 Commission.

2 VIII.

3 ORDER TO HOLD SEPARATE

4 Until the divestiture has been accomplished Defendants
5 shall comply with all the terms of the Commission's Order to Hold
6 Separate, Attached to this Consent Decree and Final Judgment and
7 made a part hereof, as Exhibit A, applicable to Mobil's Team
8 Mobil West IBU, as defined therein. Defendants will comply with
9 such terms of the Hold Separate Agreement regardless of whether
10 the Commission enters an order finally approving the merger.

11 IX.

12 COMPLIANCE INSPECTION

13 A. Defendants shall provide Plaintiff with an annual
14 verified report, detailing the manner in which they have complied
15 and are complying with the provisions of this Consent Decree and
16 Final Judgment. Said annual report shall be due at the same time
17 similar verified reports are filed with the Commission, or if
18 such reports are not filed with the Commission, then on the
19 anniversary of the signing of this Consent Decree and Final
20 Judgment.

21 B. For the purpose of determining or securing
22 compliance with this Consent Decree and Final Judgment, and
23 subject to any legally recognized privilege, from time to time:

24 1. Duly authorized representatives of the
25 plaintiff, including consultants and other persons, shall, upon
26 the written request of the Plaintiff, and on reasonable notice to
27 Defendants made to their principal offices, be permitted:

28 a. access during office hours to inspect and

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copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, which may have counsel present, relating to any matters contained in this Consent Decree and Final Judgment; and

b. subject to the reasonable convenience of defendants and without restraint or interference from them, to interview directors, officers, employees, and agents of defendants, or of the joint venture which may have counsel present, regarding any such matters.

2. No information nor any documents obtained by the means provided in this Paragraph IX shall be divulged by any representative of the plaintiff to any person other than a duly authorized representative of the California Attorney General, except in the course of legal proceedings to which both the Defendants and the Plaintiff are parties or law enforcement actions to which the Plaintiff is a party, or for the purpose of securing compliance with this Consent Decree and Final Judgment, or as otherwise required by law.

3. If, at the time information or documents are furnished by defendants to the Plaintiff, Defendants represent and identify in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c) (7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Confidential" or "Subject to claim of protection under Rule

1 26(c) (7) of the Federal Rules of Civil Procedure," then the
2 Plaintiff shall give ten (10) days' notice to the marking
3 defendant prior to divulging such material in any legal
4 proceeding, except in proceedings to enforce compliance with this
5 Consent Decree and Final Judgment, in which case the documents
6 shall be filed under seal.

7 X.

8 NOTICES

9 Any notices required by this Consent Decree and Final
10 Judgment shall be delivered to the parties at the following
11 addresses:

12 A. For Defendants: General Counsel, Exxon Corporation,
13 5959 Las Colinas Boulevard, Irving, Texas 75039; and General
14 Counsel, Mobil Corporation, 3225 Gallows Road, Fairfax, Virginia
15 22037;

16 B. For the State of California: Ms. Margaret E. Spencer,
17 Deputy Attorney General, Office of the Attorney General, 300
18 South Spring St., Los Angeles, California 90013.

19 XI.

20 RETENTION OF JURISDICTION

21 Jurisdiction is retained by this Court for the purpose
22 of enabling any of the parties to this Consent Decree and Final
23 Judgment to apply to this Court at any time for such further
24 orders and directions as may be necessary or appropriate for the
25 construction, implementation, or modification of any of the
26 provisions of this Consent Decree and Final Judgment, for the
27 enforcement of compliance herewith, and for the punishment of any
28 violations hereof.

1 Defendants hereby further acknowledge that, solely for
2 purpose of this Consent Decree, they will not assert the
3 Complaint and Consent Decree filed by Plaintiff in the District
4 of Alaska concerning the Merger as a bar to this action, under
5 principles of res judicata, including the elements of "claim
6 preclusion" and "issue preclusion."

7 XII.

8 COMMISSION ORDER

9 Any failure to divest as a result of the Commission's
10 failure to approve an application for divestiture shall not
11 violate this Consent Decree and Final Judgment.

12 XIII.

13 ATTORNEYS' FEES AND COSTS

14 A. Plaintiff is awarded its attorneys' fees and costs
15 in the amount of \$352,737. Defendants shall pay this sum to
16 plaintiff within ten (10) business days of entry of this Consent
17 Decree and Final Judgment.

18 B. If plaintiff successfully brings an action to
19 enforce the provisions of this Consent Decree and Final Judgment,
20 defendants shall reimburse Plaintiff for all reasonable costs and
21 attorneys' fees associated with bringing such enforcement action.

22 XIV.

23 TERMINATION

24 This Consent Decree and Final Judgment will expire and
25 terminate on the earlier of fourteen (14) years from the date of
26 its entry and twelve (12) years following the Effective Date of
27 Divestiture of the Exxon California Refining and Marketing Assets
28 or Mobil California Refining and Marketing Assets.

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XV.

PUBLIC INTEREST

Entry of this Consent Decree and Final Judgment is in the public interest.

DATED this 1~~ST~~ day of DECEMBER, 1999.

RONALD S W LEW
UNITED STATES DISTRICT JUDGE

///
///

1 Presented by:

2 STATE OF CALIFORNIA by:

3 BILL LOCKYER, Attorney General
of the State of California

4 RICHARD M. FRANK,
Chief Deputy Attorney General

5 THOMAS GREENE, Senior Assistant
Attorney General

6 BARBARA M. MOTZ,
Supervising Deputy Attorney General

7 MARGARET E. SPENCER,
Deputy Attorney General

8 JONATHAN R. DAVIS,
Deputy Attorney General

9

10 

11 Margaret E. Spencer
Deputy Attorney General
for Plaintiff, State of
12 California

13

14 EXXON CORPORATION and MOBIL CORPORATION by:

15

O'MELVENY & MYERS LLP

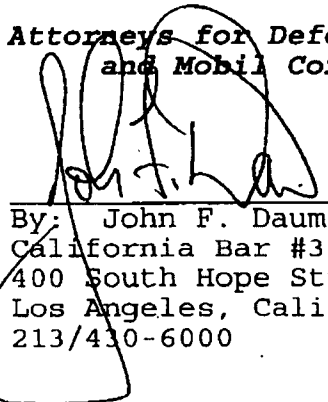
16

**Attorneys for Defendants Exxon Corporation
and Mobil Corporation**

17

18

19


By: John F. Daum
California Bar #36271
400 South Hope Street
Los Angeles, California 90071-2899
213/430-6000

22

23 **OF COUNSEL:**

24 Charles W. Matthews, Jr.
Vice President & General Counsel

25 Exxon Corporation
5959 Las Colinas Blvd.

26 Dallas, Texas 75039-2298
972/444-1440

27

28

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4 **Counsel for Exxon Corporation**

5
6 Samuel H. Gillespie, III
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Mobil Corporation
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Fairfax, Virginia 22037-0001
8 703/846-4050

9 Janet L. McDavid
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10 555 13th Street, N.W.
Washington, D.C. 20004
11 202/637-8780

12 **Counsel for Mobil Corporation**

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EXHIBIT A

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Robert Pitofsky, Chairman**
 Sheila F. Anthony
 Mozelle W. Thompson
 Orson Swindle
 Thomas B. Leary

In the Matter of)
)
Exxon Corporation,)
a corporation,)
)
and)
)
Mobil Corporation,)
a corporation.)

Docket No. C-
ORDER TO HOLD SEPARATE
AND MAINTAIN ASSETS

The Federal Trade Commission having initiated an investigation of the proposed merger of Respondents Exxon Corporation and Mobil Corporation, and Respondents having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition presented to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. §18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders ("Consent Agreement"), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having determined to accept the executed Agreement Containing Consent Orders and to place such Consent Agreement on the public record for a period of thirty (30) days, the Commission hereby issues its Complaint, makes the following jurisdictional findings and issues this Order to Hold Separate and Maintain Assets ("Hold Separate"):

1. Respondent Exxon Corporation is a corporation organized, existing and doing

business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 5959 Las Colinas Boulevard, Irving, Texas 75039-2298.

2. Respondent Mobil Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 3225 Gallows Road, Fairfax, Virginia 22037-0001.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Hold Separate, the following definitions and provisions shall apply:

- A. "Exxon" means Exxon Corporation, its directors, officers, employees, agents and representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries, divisions, groups and affiliates controlled by Exxon, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. "Mobil" means Mobil Corporation, its directors, officers, employees, agents and representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries, divisions, groups and affiliates controlled by Mobil, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. "Exxon Mobil" means Exxon Mobil Corporation, or any other entity resulting from the merger involving Exxon and Mobil, its directors, officers, employees, agents and representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries, divisions, groups and affiliates controlled by Exxon Mobil, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. "Respondents" means Exxon and Mobil, individually and collectively, and the successor corporation.
- E. "Commission" means the Federal Trade Commission.
- F. "Assets to be Divested" means all the assets required to be divested, the rights

required to be assigned, and all other obligations pursuant to Paragraphs II, III, IV, V, VI, VII, VIII, IX, X, XII, XIV, and XV if applicable, of the Decision & Order contained in the Consent Agreement.

- G. "Branded Fuels" means motor gasoline or diesel fuel sold at a Retail Site under a brand name owned by Respondents.
- H. "Computer Networks and Systems" means Respondents' computer systems, applications and shared knowledge networks used to operate and/or manage Respondents' businesses and which contain Material Confidential Information of the Held Separate Business or provide access to Material Confidential Information of the Held Separate Business, including, but not limited to, SAP SALADIN, React, TMS, MIMS/Petrosoft/Optimizer, Business Warehouse, Burster, Filenet, Intelligent Agent, Acxiom, Process Industry Modeling System, PROMIS, Khalix, Dataflex, Bestnet, Exchange Reconciliation, Express and associated tax programs.
- I. "Existing Business Units" means the personnel employed in, and all tangible and intangible property and other assets, used by the units identified in subparagraph I.J.6.a. as of October 1, 1999, except as provided in subparagraph II.B.3.
- J. "Held Separate Business" means:
 - 1. The following Mobil "Natural Business Units" ("NBUs") and "Integrated Business Unit" ("IBU"):
 - a. New England Fuels Marketing NBU, consisting of: (i) all of Mobil's interest in all Mobil branded operating service station facilities as of October 1, 1999, in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut (the "New England States"), either owned by Mobil, leased by Mobil or supplied by Mobil or its distributors, together with all Retail Assets used in the operation of those facilities owned or leased by Mobil; (ii) all light petroleum products storage and distribution terminals owned or leased by Mobil located in the New England States and all Terminal Assets used in the operation of those terminals; (iii) except as provided in subparagraph II.B.3, all persons employed as of October 1, 1999, in the operation of the service stations described in clause (i) which are operated by Mobil or in the management of Mobil's business relationship with the service stations described in clause (i) which are not operated by Mobil, and the terminals described in clause (ii), including, but not limited to, all field marketing personnel, field office support staff and persons covered by the contractual rights and obligations described in clause (iv); and (iv) all contractual rights and obligations associated with the assets described in clauses (i) and

(ii) above, including, without limitation, real estate and facility leases, franchise agreements, service contracts (both third party and shared service agreements) and exchange agreements;

- b. **New York Fuels Marketing NBU, consisting of: (i) all of Mobil's interest in all Mobil branded operating service station facilities as of October 1, 1999, in the State of New York, either owned by Mobil, leased by Mobil or supplied by Mobil or its distributors, together with all Retail Assets used in the operation of those facilities owned or leased by Mobil; (ii) all light petroleum products storage and distribution terminals owned or leased by Mobil located in the State of New York and all Terminal Assets used in the operation of those terminals; (iii) except as provided in subparagraph II.B.3, all persons employed as of October 1, 1999, in the operation of the service stations described in clause (i) which are operated by Mobil or in the management of Mobil's business relationship with the service stations described in clause (i) which are not operated by Mobil, and the terminals described in clause (ii), including, but not limited to, all field marketing personnel and field office support staff and persons covered by the contractual rights and obligations described in clause (iv); and (iv) all contractual rights and obligations associated with the assets described in clauses (i) and (ii) above, including, without limitation, real estate and facility leases, franchise agreements, service contracts (both third party and shared service agreements) and exchange agreements;**
- c. **Pennsylvania and New Jersey Fuels Marketing NBU, consisting of: (i) all of Mobil's interest in all Mobil branded operating service station facilities as of October 1, 1999, in the States of Pennsylvania and New Jersey, either owned by Mobil, leased by Mobil or supplied by Mobil or its distributors, together with all Retail Assets used in the operation of those facilities owned or leased by Mobil; (ii) all light petroleum products storage and distribution terminals owned or leased by Mobil located in the States of Pennsylvania and New Jersey and all Terminal Assets used in the operation of those terminals; (iii) except as provided in subparagraph II.B.3, all persons employed as of October 1, 1999, in the operation of the service stations described in clause (i) which are operated by Mobil or in the management of Mobil's business relationship with the service stations described in clause (i) which are not operated by Mobil, and the terminals described in clause (ii), including, but not limited to, all field marketing personnel and field office support staff and persons covered by the contractual rights and obligations described in clause (iv); and (iv) all**

contractual rights and obligations associated with the assets described in clauses (i) and (ii) above, including, without limitation, real estate and facility leases, franchise agreements, service contracts (both third party and shared service agreements) and exchange agreements;

- d. Mid-Atlantic Fuels Marketing NBU, consisting of: (i) all of Mobil's interest in all Mobil branded operating service station facilities as of October 1, 1999, in the District of Columbia and the States of Delaware, Maryland, Virginia and North Carolina (the "Mid-Atlantic States"), either owned by Mobil, leased by Mobil or supplied by Mobil or its distributors, together with all Retail Assets used in the operation of those facilities owned or leased by Mobil; (ii) all petroleum storage and distribution terminals owned or leased by Mobil located in the District of Columbia and the Mid-Atlantic States and all Terminal Assets used in the operation of those terminals; (iii) except as provided in subparagraph II.B.3, all persons employed as of October 1, 1999, in the operation of the service stations described in clause (i) which are operated by Mobil or in the management of Mobil's business relationship with the service stations described in clause (i) which are not operated by Mobil, and the terminals described in clause (ii), including, but not limited to, all field marketing personnel and field office support staff and persons covered by the contractual rights and obligations described in clause (iv); and (iv) all contractual rights and obligations associated with the assets described in clauses (i) and (ii) above, including, without limitation, real estate and facility leases, franchise agreements, service contracts (both third party and shared service agreements) and exchange agreements;
- e. Florida Fuels Marketing NBU, consisting of: (i) all of Mobil's interest in all Mobil branded operating service station facilities as of October 1, 1999, in the States of Florida and Georgia, either owned by Mobil, leased by Mobil or supplied by Mobil or its distributors, together with all Retail Assets used in the operation of those facilities owned or leased by Mobil; (ii) all light petroleum products storage and distribution terminals owned or leased by Mobil located in the States of Florida and Georgia and all Terminal Assets used in the operation of those terminals; (iii) except as provided in subparagraph II.B.3, all persons employed as of October 1, 1999, in the operation or management of the service stations described in clause (i) and the terminals described in clause (ii), including, but not limited to, all field marketing personnel and field office support staff and persons covered by the contractual rights and obligations described in clause (iv); and (iv)

all contractual rights and obligations associated with the assets described in clauses (i) and (ii) above, including, without limitation, real estate and facility leases, franchise agreements, service contracts (both third party and shared service agreements) and exchange agreements;

- f. Texas Fuels Marketing NBU, consisting of: (i) all of Mobil's interest in all Mobil branded operating service station facilities as of October 1, 1999, in the States of Texas and Louisiana, either owned by Mobil, leased by Mobil or supplied by Mobil or its distributors, together with all Retail Assets used in the operation of those facilities owned or leased by Mobil; (ii) all light petroleum products storage and distribution terminals owned or leased by Mobil located in the States of Texas and Louisiana and all Terminal Assets used in the operation of those terminals, except for the truck rack and associated light petroleum products storage facilities at Mobil's Chalmette refinery, which shall remain outside of the Held Separate Business; provided, however, that the Held Separate Business shall have the right to lift light petroleum products from that truck rack; (iii) except as provided in subparagraph II.B.3, all persons employed as of October 1, 1999, in the operation of the service stations described in clause (i) which are operated by Mobil or in the management of Mobil's business relationship with the service stations described in clause (i) which are not operated by Mobil, and the terminals described in clause (ii), including, but not limited to, all field marketing personnel and field office support staff and persons covered by the contractual rights and obligations described in clause (iv); and (iv) all contractual rights and obligations associated with the assets described in clauses (i) and (ii) above, including, without limitation, real estate and facility leases, franchise agreements, service contracts (both third party and shared service agreements) and exchange agreements; and

- g. Team Mobil West, an IBU, consisting of: (i) all of Mobil's interest in all Mobil branded operating service station facilities as of October 1, 1999, in the States of California, Arizona and Nevada, either owned by Mobil, leased by Mobil or supplied by Mobil or its distributors, together with all Retail Assets used in the operation of those facilities owned or leased by Mobil; (ii) all light petroleum products storage and distribution terminals owned or leased by Mobil located in the States of California, Arizona and Nevada and all Terminal Assets used in the operation of those terminals; (iii) the Mobil Torrance Refinery Assets as defined in the Consent Agreement; (iv) except as provided in subparagraph II.B.3, all

persons employed as of October 1, 1999, in the operation of the service stations described in clause (i) which are operated by Mobil or in the management of Mobil's business relationship with the service stations described in clause (i) which are not operated by Mobil, the terminals described in clause (ii), the Mobil Torrance Refinery Assets described in clause (iii), and all persons covered by the contractual rights and obligations described in clause (v); and (v) all contractual rights and obligations associated with the assets described in clauses (i), (ii) and (iii) above, including, without limitation, real estate and facility leases, franchise agreements, service contracts (both third party and shared service agreements) and exchange agreements.

2. Mobil Alaska Pipeline Company, a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware;
3. Mobil's interest in the Colonial Pipeline Company;
4. Mobil's Guam Fuels Marketing Business, including Mobil Oil Guam, Inc. ("MOGI"), a corporation organized, existing, and doing business under and by virtue of the laws of the Territory of Guam, and the assets located on or used in connection with Mobil's fuels marketing businesses for the Commonwealth of the Northern Mariana Islands and the Federated States of Micronesia (collectively, with the Territory of Guam, the "Guam Area"), all of which more specifically consist of: (i) all Mobil branded operating service station facilities as of October 1, 1999, in the Guam Area, either owned by Mobil, leased by Mobil or supplied by Mobil or its distributors, together with all Retail Assets used in the operation of those facilities owned or leased by Mobil; (ii) all docks, pipelines, petroleum storage and distribution terminals owned or leased by Mobil located in the Guam Area, including Mobil's interest in the terminals, storage and loading facilities, and other assets and structures located on Cabras Island, and all Terminal Assets used in the operation of those terminals; (iii) except as provided in subparagraph II.B.3, all persons employed as of October 1, 1999, in the operation of the service stations described in clause (i) which are operated by Mobil or in the management of Mobil's business relationship with the service stations described in clause (i) which are not operated by Mobil, and the docks, pipelines and terminal assets described in clause (ii), including, but not limited to, all field marketing personnel and field office support staff and persons covered by the contractual rights and obligations described in clause (iv); and (iv) all contractual rights and obligations associated with the assets described in clauses (i) and (ii) above, including, without limitation, real estate and facility leases, franchise agreements, service contracts (both third party and shared service agreements) and exchange agreements;

5. **The Exxon Jet Turbine Oil Business as defined in the Decision & Order contained in the Consent Agreement, and including: (1) the Business Support Coordinator named in Paragraph II. of Appendix A and (2) all other employees listed in the organizational chart attached as Appendix C; provided, however, that the Manager may select, within sixty (60) days of the date this Hold Separate becomes final, any of Exxon's employees, who, within the last two years, have had responsibilities or duties relating to the sales, research, or manufacture of Jet Turbine Oil, as replacements for or in addition to any of the employees listed on the organizational chart.**

6. **The Existing Business Units, current personnel, Newly-constituted Support Service Units, and newly-created positions, which assist the Manager in managing the Held Separate Business and provide support services (described in Appendix A) within the Held Separate Business, described below:**
 - a. **The following Existing Business Units of Mobil's North America Marketing & Refining Division:**
 - (1) Mobil's existing East/Southwest Inventory - Gasolines Unit;
 - (2) Mobil's existing Fuels Customer Support and Delivery Operations Control Center Units;
 - (3) Mobil's existing Fuels Pricing Unit;
 - (4) Mobil's existing Retail Operations & Information Services Unit;
 - (5) Mobil's existing Point of Sale ("POS") Support Unit;

 - b. **The following current personnel, Newly-constituted Support Service Units, and newly-created positions within the Held Separate Business:**
 - (1) Personnel from Mobil's existing Business & Performance Analysis Unit as identified in Appendix A;
 - (2) Personnel from Mobil's existing Global Manufacturing Development Unit as identified in Appendix A;
 - (3) A chief financial officer, as identified in Appendix A, to manage the funds described in Paragraph II.B.10., and staffed with the personnel identified in Appendix A;
 - (4) A Marketing Manager as identified in Appendix A;
 - (5) A Distillate Manager as identified in Appendix A;
 - (6) Personnel, as identified in Appendix A, who will provide or arrange for the provision of the following services to the

Held Separate Business:

- (a) Implementation of marketing programs and policies, management of relationships with dealers and jobbers, and development and implementation of local and regional promotional activities based on local market factors;
- (b) Employee relations services;
- (c) Legal services;
- (d) Public relations services;
- (e) Information systems management;
- (f) Refined product trading, to the extent not acquired from Respondents or third parties;
- (g) Authorize and direct maintenance and construction services provided to Retail Sites and terminals within the NBUs;
- (h) Maintenance and engineering provided in the normal course of business within the Torrance Refinery; and
- (i) Support of environmental health and personnel safety services at the Torrance Refinery, Retail Sites, and Terminals within the NBUs.

7. Offices located in the Willow Oaks Building, Willow Oaks Corporate Drive, Fairfax, Virginia 22031, consisting of space in that building that, during the Hold Separate Period, will be maintained under separate keyed access for the sole and exclusive use of the Held Separate Business.

Provided, however, that the Held Separate Business need not include those service station facilities that were Mobil branded operating service station facilities as of October 1, 1999, and would otherwise be included within the Held Separate Business as defined in subparagraphs I.J.1.a.-g. and I.J.4., but that, as of the date Respondents execute the Agreement Containing Consent Orders, have been or are in the process of being terminated by Respondents pursuant to mutual agreement or otherwise in compliance with the Petroleum Marketing Practices Act, 15 U.S.C. § 2801 *et seq.*, with such termination effective on or before December 31, 1999; provided, further, that the Held Separate Business shall include all operating service station facilities that have been approved as Mobil branded operating service stations since October 1, 1999, in the geographic areas described in subparagraphs I.J.1.a. – g. and I.J.4.

- K. "Hold Separate Period" means the time period during which the Hold Separate is in effect, which shall begin no later than ten (10) days after the date the Hold Separate becomes final and terminate pursuant to Paragraph V hereof.
- L. "Material Confidential Information" means competitively sensitive or proprietary

information not independently known to an entity from sources other than the entity to which the information pertains, and includes, but is not limited to, all customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.

- M. "Merger" means the proposed merger involving Exxon and Mobil.
- N. "Mobil Torrance Refinery Assets" means Mobil's refinery located at Torrance, California, and all of Mobil's interest in all tangible assets used in the operation of the refinery; all licenses, agreements, contracts, and permits used in the operation of the refinery; the non-exclusive right to use all patents, know-how, and other intellectual property used by Mobil in the operation of the refinery; at the acquirer's option, all contracts, agreements or understandings relating to the transportation, terminaling, storage or sale of the refinery's petroleum product output; at the acquirer's option, all agreements under which Mobil receives crude oil or other inputs at or for the refinery; and, at the acquirer's option, all exchange agreements involving the refinery. "Mobil Torrance Refinery Assets" also includes all plans (including proposed and tentative plans, whether or not adopted), specifications, drawings, and other assets (including the non-exclusive right to use patents, know-how, and other intellectual property, relating to such plans) related to the operation of, and improvements, modifications, or upgrades to, the Torrance refinery. "Mobil Torrance Refinery Assets" also includes, but is not limited to, all of Mobil's interest in the SJV crude pipeline system between Lost Hills, California, and the refinery (M-70); the Southwest Terminal in Los Angeles Harbor (including the dock, tanks, and other facilities located at the terminal); all crude (M-146) and products pipelines running between the Southwest Terminal dock and the refinery; and the products pipeline between the refinery and Kinder Morgan's Watson Terminal; the Mobil Pacific Pipe Line Company products pipeline between the GATX terminal and the refinery; the jet fuel pipeline between the refinery and Los Angeles International Airport; and Mobil Pacific Pipeline's interest in the THUMS Wilmington Crude Gathering System between the Wilmington Field and the refinery (M-131, M-132, M-142); and the Torrance crude system (M-134, M-135).
- O. "Newly-constituted Support Services Unit" means a business function, staffed with personnel identified in Appendix A and charged with providing or arranging for the provision of support services to the Held Separate Business.
- P. "Retail Assets" means, for each Retail Site, all fee and leasehold interests of Respondents in the Retail Site, and all of Respondents' interest in all assets, tangible or intangible, that are used at that Retail Site, including, but not limited to, all permits, licenses, consents, contracts, and agreements used in the operation of the Retail Site, and the non-exclusive right to use all patents, know-how, and other intellectual property used by Respondents in the operation of the Retail Sites. "Retail Assets" also includes all fee and leasehold interests of Respondents

in real property that, as of October 1, 1999, was intended for use as a Retail Site and all permits, licenses, consents, contracts, and agreements intended for use or used with respect to that real property. "Retail Assets" also includes all of Respondents' interest in all assets relating to all ancillary businesses (including, but not limited to, automobile mechanical service, convenience store, restaurant or car wash) located at each Retail Site, including all permits, licenses, consents, contracts, and agreements used in the operation of the ancillary businesses, and the non-exclusive right to use all know-how, patents, and other intellectual property used in the operation of the ancillary businesses. "Retail Assets" also includes all tank trucks and all contracts with all other persons for supplying Branded Fuels to the Retail Sites.

- Q. "Retail Site" means a business establishment within the Held Separate Business from which gasoline is sold to the general public.
- R. "Terminal Assets" means all of Mobil's assets relating to its petroleum storage and distribution terminals, including all assets, tangible and intangible, that are used to operate the terminal for the storage and distribution of petroleum products, including, but not limited to, all real estate, storage tanks, loading and unloading facilities, licenses, permits and contracts pertaining to the terminal facilities, offices, buildings, warehouses, equipment, machinery, fixtures, tools, spare parts, and all other property used in Terminaling; and the non-exclusive right to use all patents, know-how, and other intellectual property used by Mobil in the operation of the terminal.
- S. "Terminaling" means the services performed by a facility that provides temporary storage of gasoline received from a pipeline or marine vessel, and the redelivery of gasoline from storage tanks into tank trucks or transport trailers.

II.

IT IS FURTHER ORDERED that:

- A. During the Hold Separate Period, Respondents shall hold the Held Separate Business separate, apart, and independent as required by this Hold Separate, except to the extent that Respondents must exercise direction and control over the Held Separate Business to assure compliance with this Hold Separate, or with the Decision & Order contained in the Consent Agreement, and except as otherwise provided in this Hold Separate, and shall vest the Held Separate Business with all rights, powers, and authorities necessary to conduct their business. The purpose of this Hold Separate is to: (i) preserve the Held Separate Business, including the Assets to be Divested, as viable, competitive, and ongoing businesses independent of Respondents until the relevant divestitures are achieved; (ii) assure that no Material Confidential Information is exchanged between Respondents and the

Held Separate Business, except in accordance with the provisions of this Hold Separate; (iii) prevent interim harm to competition pending the relevant divestitures and other relief; and (iv) help remedy any anticompetitive effects of the proposed Merger.

- B. Respondent shall hold the Held Separate Business separate, apart, and independent on the following terms and conditions:
1. The Commission may appoint a Hold Separate Trustee subject to the consent of Respondents, which consent shall not be unreasonably withheld. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of the Hold Separate Trustee within five (5) days after notice by the staff of the Commission to Respondents of the identity of any Hold Separate Trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.
 - a. No later than five (5) days after the appointment of the Hold Separate Trustee, Respondents shall enter into an agreement with the Hold Separate Trustee that will, subject to the approval of the Commission, transfer to the Hold Separate Trustee all rights, powers, and authorities necessary to permit the Hold Separate Trustee to perform his/her duties and responsibilities, pursuant to this Order to Hold Separate and Maintain Assets and consistent with the purposes of the Decision & Order contained in the Consent Agreement. The trustee agreement shall require that thirty (30) days after the Order to Hold Separate and Maintain Assets becomes final, and every thirty (30) days thereafter until the Hold Separate terminates, the Hold Separate Trustee shall report in writing to the Commission concerning the efforts to accomplish the purposes of this Hold Separate. Included within that report shall be the Hold Separate Trustee's assessment of the extent to which the businesses comprising the Held Separate Business are meeting (or exceeding) their projected goals as are reflected in operating plans, budgets, projections or any other regularly prepared financial statements.
 - b. No later than five (5) days after the Commission's approval of the agreement between the Hold Separate Trustee and the Respondents, Respondents shall transfer to the Hold Separate Trustee all rights, powers, and authorities necessary to permit the Hold Separate Trustee to perform his/her duties and responsibilities, pursuant to this Order to Hold Separate and Maintain Assets and consistent with the purposes of the Decision & Order contained in the Consent Agreement.

- c. The Hold Separate Trustee shall have the responsibility, consistent with the terms of this Hold Separate and the Decision & Order contained in the Consent Agreement, for monitoring the organization of the Held Separate Business; for managing the Held Separate Business through the Manager; for maintaining the independence of the Held Separate Business; and for assuring Respondents' compliance with their obligations pursuant to this Hold Separate and the Decision & Order contained in the Consent Agreement.
- d. The Hold Separate Trustee shall have full and complete access to all personnel, books, records, documents and facilities of the Held Separate Business or to any other relevant information as the Hold Separate Trustee may reasonably request, including, but not limited to, all documents and records kept in the normal course of business that relate to the Held Separate Business. Respondents shall develop such financial or other information as the Hold Separate Trustee may request and shall cooperate with the Hold Separate Trustee. Respondents shall take no action to interfere with or impede the Hold Separate Trustee's ability to monitor Respondents' compliance with this Hold Separate and the Consent Agreement or otherwise to perform his/her duties and responsibilities consistent with the terms of this Hold Separate.
- e. The Hold Separate Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Hold Separate Trustee's duties and responsibilities.
- f. The Commission may require the Hold Separate Trustee to sign an appropriate confidentiality agreement relating to Commission materials and information received in connection with performance of the Hold Separate Trustee's duties.
- g. Respondents may require the Hold Separate Trustee to sign a confidentiality agreement prohibiting the disclosure of any Material Confidential Information gained as a result of his or her role as Hold Separate Trustee to anyone other than the Commission.

- h. If the Hold Separate Trustee ceases to act or fails to act diligently and consistent with the purposes of this Hold Separate, the Commission may appoint a substitute Hold Separate Trustee in the same manner as provided in Paragraph II. of this Hold Separate. In the event a substitute Hold Separate Trustee is appointed, Respondents shall be notified of the name of the substitute Hold Separate Trustee. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Hold Separate Trustee within ten (10) business days after notice by the Commission to Respondents of the identity of any proposed Hold Separate Trustee, Respondents shall be deemed to have consented to the selection of the proposed Hold Separate Trustee.
2. No later than one (1) day after this Order to Hold Separate and Maintain Assets becomes final, Respondents shall enter into a management agreement with, and transfer all rights, powers, and authorities necessary to manage and maintain the Held Separate Business to, Brian R. Baker, President of Mobil's North America Marketing & Refining Division, the individual Respondents have selected to act as Manager.
 - a. In the event that Brian Baker ceases to act as Manager, then Respondents shall select a substitute Manager, subject to the approval of the Hold Separate Trustee, and transfer to the substitute Manager all rights, powers and authorities necessary to permit the substitute Manager to perform his/her duties and responsibilities, pursuant to this Order to Hold Separate and Maintain Assets.
 - b. The Manager shall report directly and exclusively to the Hold Separate Trustee and shall manage the Held Separate Business independently of the management of Respondents. The Manager shall not be involved, in any way, in the operations of the other businesses of Respondents during the term of this Hold Separate.
 - c. The Manager shall have no financial interests affected by Respondents' revenues, profits or profit margins, except that the Manager's compensation for managing the Held Separate Business may include economic incentives dependent on the financial performance of the Held Separate Business if there are also sufficient incentives for the Manager to operate the Held Separate Business at no less than current rates of operation (including, but not limited to, current rates of production and sales) and to achieve the objectives of this Hold Separate. For a period of two (2) years beginning after the end of the Hold Separate Period, Respondents shall not retain the services of such former Manager.

- d. The Manager shall make no material changes in the present operation of the Held Separate Business except with the approval of the Hold Separate Trustee.
 - e. The Manager shall have the authority, with the approval of the Hold Separate Trustee, to remove persons identified in Appendix A and replace them with others of similar experience or skills. If any person identified in Appendix A ceases to act or fails to act diligently and consistent with the purposes of this Hold Separate, the Manager, in consultation with the Hold Separate Trustee, may request Respondents to, and Respondents shall, appoint a substitute person, which person the Manager shall have the right to approve.
 - f. In addition to those employees within the Held Separate Business, the Manager shall employ such employees as are reasonably necessary to assist the Manager in managing the Held Separate Business, including, without limitation, pricing services personnel, employee relations personnel, legal services personnel, public relations personnel, supply personnel, earnings consolidation and analysis personnel, business performance personnel (balanced scorecard, expense, volume, shared services reporting) customer relations personnel and marketing administration personnel.
 - g. The Hold Separate Trustee shall be permitted to remove the Manager for cause. Within fifteen (15) days after such removal of the Manager, Respondents shall appoint a replacement Manager, subject to the approval of the Hold Separate Trustee, on the same terms and conditions as provided in subparagraph II.B.2 of this Hold Separate.
3. The Held Separate Business shall be staffed with sufficient employees to maintain the viability and competitiveness of the Held Separate Business. Employees of the Held Separate Business shall include (i) all personnel described in subparagraph I.J.; and (ii) any persons hired from other sources. To the extent that any employees of the Held Separate Business leave or have left the Held Separate Business prior to the divestiture of the Assets to be Divested, the Manager, with the approval of the Hold Separate Trustee, may replace departing or departed employees with persons who have similar experience and expertise or determine not to replace such departing or departed employees.
 4. In connection with support services not included within the Held Separate Business:

- a. Respondents shall offer and the Held Separate Business shall obtain the following services and products only from Respondents:
- (1) National brand advertising and promotion programs;
 - (2) Federal and state regulatory policy development and compliance;
 - (3) Human resources administrative services;
 - (4) Environmental health and safety services, which develops corporate policies and insures compliance with federal and state regulations and corporate policies;
 - (5) Preparation of tax returns; and
 - (6) Audit services.
- b. Respondents shall offer to the Held Separate Business any services and products that Respondents provide to their other businesses directly or through third party contracts, or that they have provided directly or through third party contracts to the businesses constituting the Held Separate Business at any time since October 1, 1999. The Held Separate Business may, at the option of the Manager with the approval of the Hold Separate Trustee, obtain such services and products from Respondents. The services and products that Respondents shall offer the Held Separate Business shall include, but shall not be limited to the following:
- (1) Refined fuels product trading and acquisition;
 - (2) Wholesale engineering services, including engineering, design, and maintenance of terminals;
 - (3) Convenience store category management;
 - (4) Development of new POS systems;
 - (5) Credit card processing;
 - (6) Information systems, which constructs, maintains, and supports all SAP and other computer systems;
 - (7) Medical services, including drug testing;
 - (8) Public affairs, which provides media and community relations services;
 - (9) Processing of accounts payable;
 - (10) Security services;
 - (11) Technical support;
 - (12) Financial accounting services;
 - (13) Aviation services;
 - (14) Procurement of refinery supplies for the Mobil Torrance Refinery (e.g. catalysts, chemicals, repair services, maintenance);
 - (15) Procurement of goods and services utilized in the ordinary course of business by the Held Separate Business;

- (16) Legal services;
 - (17) Service station design, maintenance, and construction;
 - (18) New product development services from Mobil Technical Center;
 - (19) Real estate services, including the identification and development of new sites (to be provided by Trammel Crow under existing contracts); and
 - (20) Any and all services and products relating to and including the distribution and sale of Jet Turbine Oils.
- c. In connection with services and products other than those listed in II.B.4.a., and including but not limited to those listed in II.B. 4.b., the Held Separate Business shall have, at the option of the Manager with the approval of the Hold Separate Trustee, the ability to acquire services and products from third parties unaffiliated with Respondents.
- d. Except as otherwise provided in this Hold Separate, for such services and products provided pursuant to this subparagraph II.B.4., Respondents may charge the Held Separate Business the same amount, if any, charged by Respondents to their other businesses.
- e. Respondents' personnel supplying services or products to the Held Separate Business pursuant to this subparagraph must retain and maintain any and all Material Confidential Information of the Held Separate Business on a confidential basis. Except as permitted by this Hold Separate, such persons shall be prohibited from providing, discussing, exchanging, circulating or otherwise furnishing Material Confidential Information of the Held Separate Business to or with any person whose employment involves any of Respondents' businesses. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Material Confidential Information of the Held Separate Business.

5. Respondents shall cause the Hold Separate Trustee, the Manager, and each employee of the Held Separate Business having access to Material Confidential Information to submit to the Commission a signed statement that the individual will maintain the confidentiality required by the terms and conditions of this Hold Separate. These individuals must retain and maintain all Material Confidential Information relating to the Held Separate Business on a confidential basis and, except as is permitted by this Hold Separate, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any of Respondents' businesses other than the Held Separate Business. These persons shall not be involved in any way in the management, production, distribution, sales, marketing, and financial operations of the competing products of Respondents.
6. No later than five (5) days after the date this Order to Hold Separate and Maintain Assets becomes final, Respondents shall establish written procedures, subject to the approval of the Hold Separate Trustee, covering the management, maintenance, and independence of the Held Separate Business consistent with the provisions of this Hold Separate.
7. No later than ten (10) days after the date this Order to Hold Separate and Maintain Assets becomes final, Respondents shall circulate to employees of the Held Separate Business and to Respondents' employees who are responsible for the sale or distribution of motor fuels in the United States, a notice of this Hold Separate and Consent Agreement, in the form attached as Attachment A.
8. The Hold Separate Trustee and the Manager shall serve, without bond or other security, at the cost and expense of Respondents, on reasonable and customary terms commensurate with the person's experience and responsibilities.
9. Respondents shall indemnify the Hold Separate Trustee and Manager and hold each harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Hold Separate Trustee's or the Manager's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Hold Separate Trustee or the Manager.
10. Respondents shall provide the Held Separate Business with sufficient financial resources:

- a. as are appropriate in the judgment of the Hold Separate Trustee to operate the Held Separate Business at no less than current rates of operation (including, but not limited to, current rates of refinery production and product sales) and at no less than the rates of operation projected in the business plans of Respondents as of October 1, 1999 (including, but not limited to, the rates of refinery production and product sales projected in such business plans); provided that failure to achieve production or sales goals projected in Respondents' business plans shall not be deemed to be a violation of this Hold Separate,
 - b. to perform all maintenance to, and replacements of, the assets of the Held Separate Business,
 - c. to carry on capital projects and business plans (as reflected in plans dated no later than October 1, 1999) at their scheduled pace, and
 - d. to maintain the viability, competitive vigor, and marketability of the Held Separate Business.
 - e. Such financial resources to be provided to the Held Separate Business shall include, but shall not be limited to, (i) general funds, (ii) capital, (iii) working capital, and (iv) reimbursement for any operating losses, capital losses, or other losses; provided, however, that, consistent with the purposes of the Decision & Order contained in the Consent Agreement, the Hold Separate Trustee may reduce in scale or pace any capital or research and development project, or substitute any capital or research and development project for another of the same cost.
11. Except as provided in this Order to Hold Separate, Respondents shall not, during the Hold Separate Period, offer employees of the Held Separate Business positions with Exxon Mobil. Each Commission-approved acquirer of Assets to be Divested that are contained within the Held Separate Business shall have the option of offering employment to any employees of those Assets to be Divested, as described by subparagraphs I.J.1.a.- d., I.J.1.f.-g., and I.J.2. - 5, to the extent applicable. Respondents shall not interfere with the employment, by any Commission-approved acquirer of Assets to be Divested, of employees of those Assets to be Divested; shall not offer any incentive to such employees of any Assets to be Divested to decline employment with any Commission-approved acquirer of Assets to be Divested or to accept other employment with the Respondents; and shall remove any impediments that may deter such employees from accepting employment with any Commission-approved

acquirer of Assets to be Divested including, but not limited to, any non-compete or confidentiality provisions of employment relating to the Assets to be Divested or other contracts that would affect the ability of such employees to be employed by any acquirer of Assets to be Divested, and the payment, or the transfer for the account of the employee, of all current and accrued bonuses, pensions and other current and accrued benefits to which such employees would otherwise have been entitled had they remained in the employment of the Respondents.

12. For a period of one (1) year commencing on the date each package of Assets to be Divested are divested and assigned, as appropriate, Respondents shall not employ or make offers of employment to employees of the Held Separate Business who have accepted offers of employment with any acquirer unless the individual has been terminated by the acquirer.
13. Notwithstanding the requirements of subparagraph 11, Respondents may offer a bonus or severance to employees included in the Held Separate Business that continue their employment with the Held Separate Business until termination of the Hold Separate Period (in addition to any other bonus or severance to which the employees would otherwise be entitled).
14. Respondents shall not exercise direction or control over, or influence directly or indirectly, the Held Separate Business, the Hold Separate Trustee, the Manager, or any of its operations; provided, however, that Respondents shall exercise such direction and control over the Held Separate Business as is necessary to assure compliance with this Hold Separate, the Consent Agreement, and with all applicable laws, including, in consultation with the Hold Separate Trustee, continued oversight of the Held Separate Business' compliance with policies and standards concerning the safety, health, and environmental aspects of their operations and the integrity of their financial controls; and Respondents shall have the right to defend any legal claims, investigations or enforcement actions threatened or brought against any Held Separate Business.
15. Except for the Manager, employees of the Held Separate Business, and support services employees involved in providing services to the Held Separate Business pursuant to subparagraph II.B.4 and except to the extent provided in subparagraph II.B.14, Respondents shall not permit any other of its employees, officers, or directors to be involved in the operations of the Held Separate Business.
16. Respondents shall maintain the viability, competitiveness, and marketability of the Held Separate Business; shall not sell, transfer, or

encumber said assets (other than in the normal course of business or as required to comply with Respondents' obligations under the Consent Agreement); and shall not cause or permit the destruction, removal, wasting, or deterioration, or otherwise impair the viability, competitiveness, or marketability of the Held Separate Business.

17. Respondents shall assure that employees of the Held Separate Business receive, during the Hold Separate Period, their salaries, all current and accrued bonuses, pensions and other current and accrued benefits to which those employees would otherwise have been entitled.
18. Except as required by law, and except to the extent that necessary information is exchanged in the course of consummating the Merger, negotiating agreements to divest assets pursuant to the Consent Agreement and engaging in related due diligence; complying with this Hold Separate or the Consent Agreement; overseeing compliance with policies and standards concerning the safety, health and environmental aspects of the operations of the Held Separate Business and the integrity of the Held Separate Business' financial controls; defending legal claims, investigations or enforcement actions threatened or brought against the Held Separate Business; or obtaining legal advice, Respondents' employees (excluding support services employees involved in providing support to the Held Separate Business pursuant to subparagraph II.B.4.) shall not receive, or have access to, or use or continue to use any Material Confidential Information, not in the public domain, of the Held Separate Business. Nor shall the Manager or employees of the Held Separate Business receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about Respondents and relating to Respondents' businesses, except such information as is necessary to maintain and operate the Held Separate Business. Respondents may receive aggregate financial information relating to the Held Separate Business to the extent necessary to allow Respondents to prepare United States consolidated financial reports, tax returns, reports required by securities laws, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph.
19. Respondents and the Held Separate Business shall jointly implement, and at all times during the Hold Separate Period maintain in operation, a system, as approved by the Hold Separate Trustee, of access and data controls for the Computer Networks and Systems to prevent unauthorized access to or dissemination of Material Confidential Information of the Held Separate Business, including, but not limited to, the opportunity by the Hold Separate Trustee, on terms and conditions agreed to with

Respondents, to audit Respondents' networks and systems to verify compliance with this Hold Separate.

III.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondents such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of this Hold Separate.

IV.

IT IS FURTHER ORDERED that for the purposes of determining or securing compliance with this Hold Separate, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents, Respondents shall permit any duly authorized representatives of the Commission:

- A. Access, during office hours of Respondents and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of the Respondents relating to compliance with this Hold Separate; and
- B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

V.

IT IS FURTHER ORDERED that this Hold Separate shall terminate at the earlier of:

- A. three (3) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34; or
- B. the day after the last of the divestitures required by the Consent Agreement is completed; provided, however, that certain assets controlled by the Held Separate Business shall be released upon the occurrence of the following events:
 - 1. When an Asset to be Divested that is included within the Held Separate Business is divested pursuant to the Consent Agreement, that asset shall cease to be held by the Held Separate Business;

2. When the Exxon Northeast Marketing Assets are divested and Respondents have complied with subparagraphs IV.A., IV.B., IV.C., IV.D., IV.E., and IV.F. of the Decision & Order contained in the Consent Agreement, the Mobil Mid-Atlantic Marketing Assets are divested and Respondents have complied with subparagraphs V.A., V.B., V.C., V.D., V.E., and V.F. of the Decision & Order contained in the Consent Agreement, and the Mobil Texas Marketing assets have been divested and Respondents have complied with subparagraphs VI.A., VI.B., VI.C., VI.D., VI.E., VI.F., VI.G., and VI.H. of the Decision & Order contained in the Consent Agreement (or if Paragraph XV of the Consent Agreement is invoked, when Respondents have divested the Mobil Northeast Marketing Assets, the Exxon Mid-Atlantic Marketing Assets, or the Exxon Maine-Virginia Assets, as the case may be, and Respondents have complied with the applicable subparagraphs), then the Held Separate Business shall transfer the following assets to Exxon Mobil (to the extent they have not been divested): Assets in the Mobil Texas Fuels Marketing NBU not required to be divested; assets in the Mid-Atlantic Fuels Marketing NBU not required to be divested; the Mobil New England, New York and Florida Fuels Marketing NBUs; and the Existing Business Units, Newly-constituted Support Service Units, and personnel identified in subparagraph I.J.6., except to the extent deemed necessary by the Hold Separate Trustee in accordance with the terms of this Hold Separate to support assets of the Held Separate Business, if any, which have not been divested;
3. When Mobil's interest in the Trans Alaska Pipeline System and either Mobil's interest in Colonial Pipeline or Exxon's interest in the Plantation Pipeline have been divested pursuant to Paragraphs IX and X of the Consent Agreement, then the Held Separate Business shall transfer the following assets to Exxon Mobil: Mobil Alaska Pipeline Company and Mobil's interest in the Colonial Pipeline Company if it has not been divested;
4. When the Exxon California Refining and Marketing Assets have been divested and Respondents have complied with subparagraphs II.A., II.B., II.C., II.D., II.E., II.F., II.G., II.H., and II.I. of the Decision & Order contained in the Consent Agreement, then the Held Separate Business shall transfer the following assets to Exxon Mobil: Mobil's Team Mobil West; and
5. When the Exxon Guam Assets have been divested pursuant to Paragraph III of the Consent Agreement, then the Held Separate

**Business shall transfer the following assets to Exxon Mobil: Mobil
Guam Fuels Marketing Business.**

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED:

APPENDIX A

APPENDIX A

- I. The included support services required by Paragraph I.J.6 of this Hold Separate shall be provided to the Held Separate Business by support services units and personnel who have been selected or approved by the Manager, including those described and identified below:
- A. Mobil's East/Southwest Inventory - Gasolines Unit, which will (1) schedule and monitor fuels product deliveries to terminals within the NBUs and notify traders of any product acquisition needs beyond existing supply and exchange agreements (Respondents will use existing price formulas set forth in Appendix B (Confidential) to charge the Held Separate Business for any product deliveries the Held Separate Business may in its discretion request from Respondents), and (2) monitor and implement existing fuels product exchange agreements and enter into any new exchange agreements required by the Held Separate Business;
 - B. Mobil's existing Fuels Customer Support and Fuels Delivery Operations Control Center Units, which are located at the Malvern Corporate and Administrative Center, which will receive and process customer orders for Branded Fuels products, schedule trucks and deliveries to Retail Sites within the NBUs, and provide customer billing, collections and other customer services to the NBUs; it also will supply such services under contract to the Mobil's Midwest NBU (which is not part of the Held Separate Business);
 - C. Mobil's existing Fuels Pricing Unit, which will collect pricing data and recommend prices to the NBUs, subject to review by the Manager, with the exception of the personnel who are responsible for pricing fuels products for Mobil's Midwest NBU;
 - D. Mobil's existing Retail Operations & Information Services Unit, which will handle administration and retail accounting for company operated Retail Sites within the NBUs; it also will supply such services under contract to Mobil's Midwest NBU (which is not part of the Held Separate Business);
 - E. Mobil's existing Point of Sale ("POS") Support Unit, which will provide technology support services maintenance of POS and Speedpass systems; it will also supply such services under contract to the Mobil's Midwest NBU (which is not part of the Held Separate Business);
 - F. The following personnel from Mobil's existing Business & Performance Analysis Unit, who will provide competitive and financial performance analysis, support, and strategic planning for the Held Separate Business (e.g., balanced scorecards, volume, and shared services reporting) and to monitor the funds as described in Paragraph II.B.10 of the Hold Separate:

- **Manager Business Performance/Analysis/CFO**
 - Earnings Consolidation
 - Analysis/Planning
 - Capital/Cash Management
 - Expense Analysis
 - Volume Analysis
 - Balanced Scorecard
 - Shared Service Monitoring
 - Industry Analysis
 - K. Campbell**
 - J. O'Neill
 - J. Cashion
 - D. Monaghan
 - W. Fine
 - D. Hightower
 - R. Long
 - P. Greco
 - J. Wadley;
- G. The following person from Mobil's existing Global Manufacturing Development unit, who will conduct periodic review and analysis of Torrance Refinery operations data to optimize output:
- **Manufacturing Manager** A. Johnson;
- H. • **Marketing Manager** A. Spiess

The Marketing Manager of the Held Separate Business will monitor the performance of outsourced contractors providing: (1) Operations Management for Convenience Stores, a service which is provided by a third party (Strasburger) under existing contracts; (2) Supplies and Inventory Management for convenience stores, which will be provided by a third party (McLane) under an existing contract; and (3) credit card processing, which is provided by a third party (First Data) under existing contracts; these third-party service providers will also be permitted to continue supplying similar services to Mobil's Midwest NBU (which is not part of the Held Separate Business) under the separate direction of Respondents' personnel. In addition, the Marketing Manager will provide guidance and direction to the following personnel in the Held Separate Business, who will provide or arrange for the provision of services to those businesses in connection with the implementation of marketing programs and policies, management of relationships with dealers and jobbers, and development and implementation of local and regional promotional activities based on local market factors:

- **Customer Relations** O. Williams
 - **Retail Dealer Coordination** R. Gavlick
 - **Distributor Coordination** S. Lucas
 - **Advertising/Programs** C. Colvett
 - **Fuels Customer Support** J. Bernard
 - **Real Estate Coordination** D. Diccio
 - **Salary Field Operations** K. Kane
- (Strasburger Employee)

- I. • Distillate Manager K. Weir

The Distillate Manager will provide guidance and support directly and through other personnel for the sales and distribution of Mobil's branded and unbranded distillate products within the geographic areas covered by the Held Separate Business.

- J. The Held Separate Business will also include the following personnel who will provide or arrange for the provision of the following services to those businesses:

Employee relations services:

- Employee/Industrial Relations Manager R. Amrhein

Legal services:

- Managing Counsel D. Rogers

Public relations services:

- Public Affairs Manager B. Eaton

Information systems management:

- Systems Liaison P. President

Refined product trading, to the extent not acquired from Respondents or third parties:

- Product Trader C. Das

Authorize and direct maintenance and construction services provided to Retail Sites and terminals within the NBUs:

- Engineering/Maintenance Coordination L. Wyte

- II The Business Support Coordinator for the Exxon Jet Turbine Oil Business to be held separate described in subparagraph I.B.5. will be Stan Linnick.

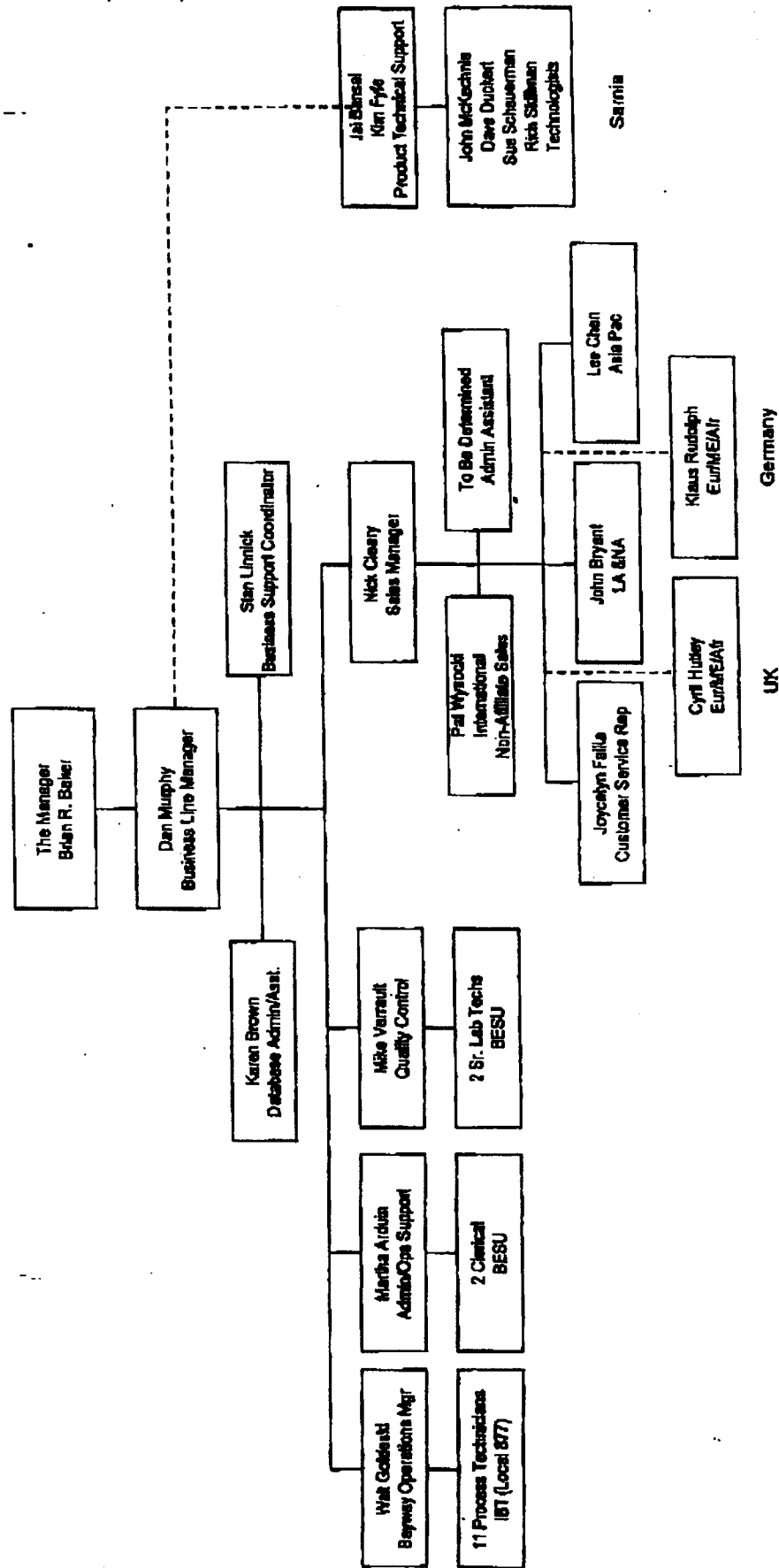
APPENDIX B

FILED UNDER SEAL

APPENDIX C

**APPENDIX C
ORGANIZATIONAL CHART**

Exxon Synthetic Aviation Turbine Oil Hold-Separate Organization



Key

IBT - International Brotherhood of Teamsters

BESU - Bayway Employee Salary Union

ATTACHMENT A

ATTACHMENT A

NOTICE OF DIVESTITURE AND REQUIREMENT FOR CONFIDENTIALITY

Exxon Corporation ("Exxon") and Mobil Corporation ("Mobil"), hereinafter referred to as Respondents (which includes the entity resulting from the merger of Exxon and Mobil), have entered into an Agreement Containing Consent Orders ("Consent Agreement") with the Federal Trade Commission relating to the divestiture of certain assets and other relief.

As used herein, the term "Held Separate Business" means the businesses and personnel as defined in Paragraph I.J. of the Order to Hold Separate and Maintain Assets contained in the Consent Agreement. Under the terms of the Decision & Order contained in the Consent Agreement, Exxon and Mobil must divest certain packages of assets, some of which are included within the Held Separate Business, within nine to 12 months of the date Exxon and Mobil executed the Consent Agreement.

During the Hold Separate Period (which begins after the Order to Hold Separate and Maintain Assets becomes final and ends after Respondents have completed the required divestitures), the Held Separate Business shall be held separate, apart, and independent of Respondents' businesses. The Held Separate Business must be managed and maintained as a separate, ongoing business, independent of all other businesses of Respondents until Respondents have completed the required divestitures. All competitive information relating to the Held Separate Business must be retained and maintained by the persons involved in the operation of the Held Separate Business on a confidential basis. Such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other of Respondents' businesses, except as advised by legal counsel of the Held Separate Business. These persons involved in the operation of the Held Separate Business shall not be involved in any way in the management, production, distribution, sales, marketing, or financial operations of Respondents relating to competing products. Similarly, persons involved in similar activities in Respondents' businesses shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any similar information to or with any other person whose employment involves the Held Separate Business.

Any violation of the Consent Agreement may subject Respondents to civil penalties and other relief as provided by law.