

Oil companies settle MTBE groundwater suit

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NEW YORK (Reuters) - About a dozen oil companies agreed to pay \$423 million (217 million pounds) and clean-up costs to settle litigation over decades of groundwater contamination from the gasoline additive and possible carcinogen MTBE, lawyers said on Wednesday.

The settlement affects public water utilities and public agencies in 17 states, attorneys for water agencies said. Refiner Valero Energy (VLO.N: [Quote](#), [Profile](#), [Research](#)) confirmed the agreement but added that the court must affirm it.

BP America (BP.L: [Quote](#), [Profile](#), [Research](#)), Chevron (CVX.N: [Quote](#), [Profile](#), [Research](#)), ConocoPhillips (COP.N: [Quote](#), [Profile](#), [Research](#)), Shell Oil (RDSa.L: [Quote](#), [Profile](#), [Research](#)), Marathon Oil (MRO.N: [Quote](#), [Profile](#), [Research](#)), Venezuela's Citgo Petroleum, Sunoco (SUN.N: [Quote](#), [Profile](#), [Research](#)) and Valero agreed to the deal, involving a key ingredient to gasoline for three decades.

"The one big holdout was ExxonMobil (XOM.N: [Quote](#), [Profile](#), [Research](#))," said Robert Gordon, of Weitz and Luxenberg, one of the three lead lawyers for the plaintiffs. Exxon did not immediately comment.

MTBE, or methyl tertiary butyl ether, in 1979 replaced lead in gasoline to make car engines run smoother. Then Congress in 1990 required refiners to use oxygenates like MTBE to clean up tailpipe emissions.

MTBE helps air quality, but it hurts water quality. The additive has leaked into water supplies in many states, sparking the lawsuits. The U.S. Environmental Protection Agency says MTBE is "a potential human carcinogen" and that unlike other gasoline components seeps easily into groundwater because it does not "cling" to soil.

Lawyers said one of the most important parts of the settlement was to clean up the groundwater contamination.

"There is going to be treatment of the wells and the affected areas guaranteed for the next 30 years," Gordon said.

The 2003 lawsuit by public water providers in 17 states was consolidated into a single federal case.

The settlement, filed in U.S. District Court in Manhattan, is "a step in the direction of making the parties responsible for the contamination pay for it rather than the folks who drink the water and pay the rates," said Victor Sher, another of the lead attorneys. "It's a significant development."

Five smaller companies have not settled, including the former Lyondell Petrochemical, largely a chemicals maker but also owner of a Houston oil refinery. The company is now LyondellBasell Industries, one of the world's biggest chemicals companies.

When MTBE gets into groundwater, it makes the water taste and smell like turpentine.

Trying to make gasoline less-polluting has proven a difficult task for oil refiners, who have long said they added MTBE to the fuel mix because of government mandates for cleaner fuel, especially in big cities and in the summer.

Support began to crumble for MTBE in the late 1990s when two states that accounted for 40 percent of its use -- California and New York -- announced intentions to phase out the additive.

Ethanol began to replace MTBE in earnest by 2005, when about 4 billion gallons were added to the U.S. gasoline supply.

Now, oil companies face the issue of using corn-based ethanol to burn cleaner gasoline, also in part because of government mandate. But using corn for fuel is linked to higher food prices.

"The MTBE decisions were made because there simply wasn't anything practical that could be used in the volume needed," said John Felmy, chief economist with the industry advocate American Petroleum Institute.

Federal mandates require that the 141 billion gallons of U.S. gasoline expected to be used in 2008 should contain 9 billion gallons of ethanol. That requirement will increase to 15 billion gallons by 2015 and to 36 billion gallons by 2022.

Felmy said the oil industry turned to MTBE instead of ethanol in the 1990s as the ethanol industry was not developed enough to handle the volume required.

(Reporting by Leslie Gevirtz, Adam Tanner, Peter Henderson, Bernard Woodall; editing by Jeffrey Benkoe/Andre Grenon/Braden Reddall)

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