UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

March 24, 2023

Louis Goldberg
Davis Polk & Wardwell LLP

Re: Exxon Mobil Corporation (the "Company")
Incoming letter dated January 12, 2023

Dear Louis Goldberg:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Mercy Investment Services, Inc. for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the Company issue a report evaluating the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana and clarify the extent of the Company's cleanup response commitments.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company's public disclosures do not substantially implement the Proposal.

Copies of all of the correspondence on which this response is based will be made available on our website at https://www.sec.gov/corpfin/2022-2023-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: Sanford Lewis

Davis Polk

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017
davispolk.com

January 12, 2023

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the "**Company**"), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), we are filing this letter with respect to the shareholder proposal (the "**Proposal**") submitted by Mercy Investment Services, Inc. (the "**Proponent**") for inclusion in the proxy materials the Company intends to distribute in connection with its 2023 Annual Meeting of Shareholders (the "**2023 Proxy Materials**"). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the "**Staff**") will not recommend any enforcement action with respect to the 2023 Proxy Materials if, in reliance on Rule 14a-8(i)(10), the Company omits the Proposal.

Pursuant to Staff Legal Bulletin No. 14D (CF), Shareholder Proposals (Nov. 7, 2008), Question C, we have submitted this letter via email to shareholderproposals@sec.gov. Also, in accordance with Rule 14a-8(j), a copy of this submission is being sent simultaneously to the Proponent as notification of the Company's intention with respect to the Proposal. This letter constitutes the Company's statement of the reasons set forth herein. We have been advised by the Company as to factual matters set forth herein.

THE PROPOSAL

The Proposal states:

> RESOLVED: Shareholders request that the Company issue a report evaluating the economic, human and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. The report should be prepared at reasonable expense, omit proprietary or privileged information, and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies.

REASON FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2023 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company has already substantially implemented the Proposal.

The Company May Omit the Proposal Pursuant to Rule 14a-8(i)(10) Because the Proposal Has Been Substantially Implemented by the Company's Extensive Environmental Impact Assessments Related to Its Guyana Operations.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if the company has already substantially implemented the proposal. According to the Commission, the purpose of this rule is to "avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by management." *See* Exchange Act Release No. 34-20019 (Aug. 15, 1983); Exchange Act Release No. 34-12598 (July 1976). The Commission has stated that "substantial" implementation under the rule does not require implementation in full or exactly as presented by the proponent. *See* Exchange Act Release No. 34-40018 (May 21, 1998, n.30).

The Staff has consistently found that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *See Texaco, Inc.* (Mar. 28, 1991). *See also, e.g. BlackRock, Inc.* (Apr. 2, 2021); *JPMorgan Chase & Co.* (Mar. 9, 2021); *Devon Energy Corp.* (Apr. 1, 2020); *Johnson & Johnson* (Jan. 31, 2020); *Pfizer Inc.* (Jan. 31, 2020); *The Allstate Corp.* (Mar. 15, 2019); *Johnson & Johnson* (Feb. 6, 2019); *United Cont'l Holdings, Inc.* (Apr. 13, 2018); *eBay Inc.* (Mar. 29, 2018); *Kewaunee Scientific Corp.* (May 31, 2017); and *Wal-Mart Stores, Inc.* (Mar. 16, 2017).

Further, the Staff has provided no-action relief under Rule 14a-8(i)(10) when a company has substantially implemented and therefore satisfied the "essential objective" of a proposal, even if the company did not take the exact action requested by the proponent, did not implement the proposal in every detail, or exercised discretion in determining how to implement the proposal. *See IDACORP Inc.* (Apr. 1, 2022) (proposal requesting a report disclosing short-, medium- and long-term greenhouse gas targets aligned with the Paris Agreement, where the company's ESG Report already disclosed targets); *Exxon Mobil Corp.* (Mar. 9, 2021) (proposal requesting a report on the risk of stranded assets related to environmental impacts of its petrochemical investments, where the company had already published a report addressing the same matters); *Chevron Corp.* (Mar. 20, 2020) (proposal requesting a report describing the company's plans to reduce its total contribution to climate change and align its operations and investments with the Paris Agreement, where the company had already published a report addressing the same matters).

The essential objective of the Proposal is for the Company to conduct an evaluation and issue a report assessing the economic, human and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. The Company has already developed detailed plans, conducted extensive evaluations and issued an environmental impact assessment related to each of its development projects in Guyana (each individually, a "**Report**", and collectively, the "**Reports**"), which directly address the potential economic, human and environmental impacts of what is termed a "worst-case discharge scenario" from its operations offshore of Guyana. Taking into account "adverse assumptions" as requested by the Proposal, the Reports define a worst-case discharge scenario in accordance with the U.S. Bureau of Ocean Energy Management's definition: the single highest daily flow rate of liquid hydrocarbon during an uncontrolled wellbore flow event.

In each case, a Report includes an extensive evaluation on the potential economic, human and environmental impact of a worst-case discharge with respect to the project, and each Report is sufficiently detailed so that the Reports, taken as a whole, then ultimately cover such impacts with respect to all of the Company's operations offshore of Guyana. The Reports are all publicly available via a link, located on the Company's dedicated webpage to its "Environmental Efforts in Guyana" (the "**Company Website**")[1], to the

[1] https://corporate.exxonmobil.com/locations/guyana/environmental-efforts-in-guyana.

section of the Guyana Environmental Protection Authority's website that has posted all of the Report. The Company Website also provides a brief overview of these environmental efforts.

As just one representative example of the Company's existing, extensive public reporting, the Company has publicly issued an environmental impact assessment of its Payara development project that addresses a wide variety of potential unplanned events, including an offshore oil spill (defined as a "**Marine Oil Spill**" in this document). All three volumes of the Payara environmental impact assessment (the "**Payara Report**") are publicly available and posted directly on the Company Website along with certain other key Reports and the Company's Oil Spill Response Plan for Guyana Operations, which covers all of its operations in Guyana. In particular, Section 9 of the Payara Report is publicly available on the Company Website as part of "Volume I of the July 2020 Payara EIA," beginning on page 9-1 (or page 889 of the linked PDF).[2] This section is an illustrative example of the information contained in the Reports that directly addresses the requests in the Proposal.

The information in the Payara Report is substantially comparable to the other Reports in terms of addressing the Proposal. The table below illustrates in detail how the Payara Report compares favorably with the guidelines of the Proposal. Since the Payara Report is substantially comparable to the other Reports, this shows that the Reports collectively compare favorably with the guidelines of the Proposal.

Proposal Language	Current Implementation in Payara Report	Pages of the Payara Report
Public Report.		
"*Shareholders request that the Company issue a report…*"	The Company has issued the Payara Environmental Impact Assessment, which is publicly available on the Guyana EPA's website and the Company Website.	N/A
Economic Impact. These sections of the Payara Report describe the potential impact on socioeconomic conditions, employment and livelihood, marine use, transportation, waste management infrastructure, use of land and ecosystem services, all of which are potential economic effects of a worst-case oil spill scenario.		
"*…evaluating the economic [impact]…*"	Section 9.15.- Socioeconomic Conditions/ Employment and Livelihoods: describes the potential result of a marine oil spill, a coastal oil spill and a collision between a project vessel and a non-project vessel on the socioeconomic conditions and employment and livelihood of individuals in Guyana. The report specifies that oil spills could result in decreased fishery and/or coastal agricultural yields and could potentially impact the fishery and agriculture sectors that currently account for a large part of Guyana's gross domestic product. Section 9.15. of the Payara Report also includes an assessment of the economic impact of different types of hypothetical spills (including worst-case scenarios for each of them).	9-170 to 9-177

[2] https://corporate.exxonmobil.com/-/media/global/files/locations/guyana-operations/eepgl-payara-eia-volume-i_eis-eia_july-2020_rev-4.pdf?la=en&hash=C524E9BD1074B674430228DA39F621A3F1B90375.

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
	Section 9.17.- Marine Use and Transportation: describes the potential for measurable impacts on marine use and transportation from oil spills. This section includes the potential impact to fishing as a commercial and subsistence activity and aquatic transportation as the only method of transportation available for part of Guyana's population.		9-183 to 9-186
	Section 9.19.- Waste Management and Infrastructure Capacity: evaluates how an oil spill (including a worst-case scenario) would impact waste management infrastructure. This section describes that a worst-case scenario would have a potential impact on marine biota, marine geology and sediments and marine water, but would not be expected to result in a material increase in waste generation. The report includes the Company's plan to manage the potential waste in case of an oil spill.		9-190 to 9-193
	Section 9.21.- Land Use: in case there is an unplanned marine and/or coastal spill, it describes that the only scenario where an oil spill would affect land use is if it affects a portion of the shoreline being used for agriculture purposes or where it could indirectly result in adverse impacts on land drainage.		9-197 to 9-200
	Section 9.22.- Ecosystem Services: discusses the impact of an oil spill on the ecosystem services. The report describes the potential impact of an oil spill on fisheries and agriculture (which are still among the top contributors to Guyana's GDP), on aquatic transportation systems and trade and on recreation, leisure and tourism, among others.		9-201 to 9-211
Human Impact. These sections of the Payara Report describe the potential impact on healthcare infrastructure, on cultural heritage, on indigenous peoples and on community health and well-being, including the potential harm to public health, as requested in the supporting statement of the Proposal. All these potential impacts are regarded as human impact of a worst-case oil spill scenario.			
"*…human [impact]…*"	Generally	Section 9.18.- Social Infrastructure and Services: reports that a potential oil spill would result in a burdening of healthcare infrastructure if medical service is required, but the burden would not be expected to overwhelm the existing capacity of Georgetown.	9-186 to 9-189

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
		Section 9.20.- Cultural Heritage: reports the potential loss of cultural and underwater cultural heritage as a result of unplanned events. The report adds that there are several archaeological sites along the Guyana coast and that a potential oil spill (including a worst-case scenario) would marginally impact the coastal cultural heritage.	9-194 to 9-196
		Section 9.23.- Indigenous Peoples: reports the potential impact of an oil spill scenario on indigenous peoples. Since these communities rely on the coastal habitats for subsistence and livelihoods, a potential oil spill has the potential of highly impacting coastal indigenous communities, if unmitigated.	9-211 to 9-213
	To Public Health	Section 9.16.- Community Health and Wellbeing: describes the potential impacts of these various scenarios, including different types of oil spills, on community health and well-being. The potential of a high impact on the health of affected coastal communities, as described in the report, is due to (i) their dependence on the coastal environment for subsistence and income and the use of rivers for transportation and daily household activities, such as washing and bathing, (ii) the high rate of poverty and (iii) the current health challenges faced by the coastal population in Guyana.	9-177 to 9-183
Environmental Impact. These sections of the Payara Report describe the potential environmental impact of a worst-case oil spill scenario, including the potential harm to marine ecosystems, as requested in the supporting statement of the Proposal.			
"*…and environmental impacts…*"	Generally	Section 9.2.- Air Quality and Climate: evaluates the potential impact to air quality or climate of an oil spill. The report considers that the potential for potentially harmful concentrations of air contaminants reaching the Guyana	9-104 to 9-107

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
		coastline to be very low, even for large spills. On the potential climate impact, the report adds that there is a risk of a very small increase in greenhouse gas emissions.	
		Section 9.5. - Protected Areas and Special Section Status Species: describes the potential risks of unplanned events on marine mammals, riverine mammals and marine turtles.	9-113 to 9-123
		Section 9.6.- Coastal Habitats: describes the potential risks of unplanned events on coastal habitats, including mangroves and vegetated low banks.	9-123 to 9-127
		Section 9.7.- Coastal Wildlife: describes the potential risks of unplanned events on coastal wildlife such as coastal birds and fish.	9-127 to 9-131
		Section 9.8.- Seabirds: describes the potential risks of unplanned events on seabirds.	9-131 to 9-138
		Section 9.10.- Riverine Mammals: describes the potential risks of unplanned events on riverine mammals.	9-144 to 9-148
	To Marine Ecosystems	Section 9.3.- Marine Geology and Sediments: describes the potential risks of unplanned events on marine water sediments and seafloor.	9-107 to 9-109
		Section 9.4.- Marine Water Quality: describes the potential risks of unplanned events on marine water quality.	9-109 to 9-113
		Section 9.9.- Marine Mammals: describes the potential risks of unplanned events on marine mammals.	9-138 to 9-143

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
		Section 9.11.- Marine Turtles: describes the potential risks of unplanned events on marine turtles.	9-148 to 9-153
		Section 9.12.- Marine Fish: describes the potential risks of unplanned events on marine fish.	9-153 to 9-159
		Section 9.13.- Marine Benthos: describes the potential risks of unplanned events on marine benthos and benthic organisms.	9-160 to 9-163
		Section 9.14.- Ecological Balance and Ecosystems: describes the potential risks of unplanned events on the ecological balance and ecosystems.	9-163 to 9-170
Worst-Case Scenarios. The supporting statement of the Proposal notes that a "worst-case" analysis should use adverse assumptions such as extended duration and uncontrolled release, severe weather conditions and increased flows. As described below, all of these considerations are addressed in the Payara Report.			
"…of a worst-case oil spill from its operations offshore of Guyana."	Generally	Section 9.1. The Payara Report defines a worst-case oil spill as a "worst-case discharge scenario" for a Marine Oil Spill ("**WCD**"). The report also includes a wide variety of other potential oil spill scenarios such as coastal spills and spill resulting from collisions. All the potential scenarios, including a WCD, are included in Section 9.1. of the Payara Report.	9-1 to 9-103
		Section 9.24.- Transboundary Impacts: describes potential transboundary impacts to the broader Caribbean region	9-214 to 9-224
	Extended Duration	Section 9.1. The Scenario Maps in this section provide extensive modeling of discharges lasting 10, 30, 45 and 54 days under a variety of circumstances	9-14 to 9-80
	Uncontrolled Release	Section 9.1. The Scenario Maps in this section provide numerous models of unmitigated WCD scenarios under a variety of circumstances, which assume	9-14 to 9-80

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
		that no mitigating efforts or flow restrictions are implemented to control the release.	
	Severe Weather	Sections 9.1.2., 9.1.3 and 9.1.4. These sections describe how weather and natural conditions can impact the behavior of an oil spill. The Payara Report also includes seasonal differences between winter and summer.	9-11 to 9-16
	Flow Rate	Section 9.1.1.9. This section mentions that the WCD values represent an open well condition in which no flow restriction or well control technologies are in operation.	9-6 to 9-11
Cleanup Response Commitments.			
"…and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies."	The Company's cleanup response commitments are detailed extensively in its Oil Spill Response Plan for Guyana Operations, which is part of Volume III of the Payara Report, with the most recent version available on the Company Website. The cleanup response commitment is described in Section 7 of Volume III of the Payara Report.		Oil Spill Response Plan for Guyana Operations.

As illustrated in detail, the Reports, as exemplified by the Payara Report (which is substantially comparable to the other Reports), meet the essential objective of the Proposal, which is to evaluate and issue a report on the economic, human and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. Because the extensive evaluations contained in the Reports compare favorably with, and thus substantially implement, the guidelines of the Proposal, the Company believes that the Proposal may be omitted from the Company's 2023 Proxy Materials pursuant to Rule 14a-8(i)(10).

CONCLUSION

For the reasons set forth above, the Company believes that the Proposal may be excluded from the Company's 2023 Proxy Materials pursuant to Rule 14a-8(i)(10). The Company respectfully requests the Staff's concurrence with its decision to exclude the Proposal from its 2023 Proxy Materials and further requests confirmation that the Staff will not recommend enforcement action to the SEC if it so excludes the Proposal.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this request. Please do not hesitate to call me at (212) 450-4539 or to contact James E. Parsons, the Company's Executive Counsel, at james.e.parsons@exxonmobil.com or (972) 940-6211, if we may be of any further assistance in this matter.

Respectfully yours,

Louis Goldberg

Attachment

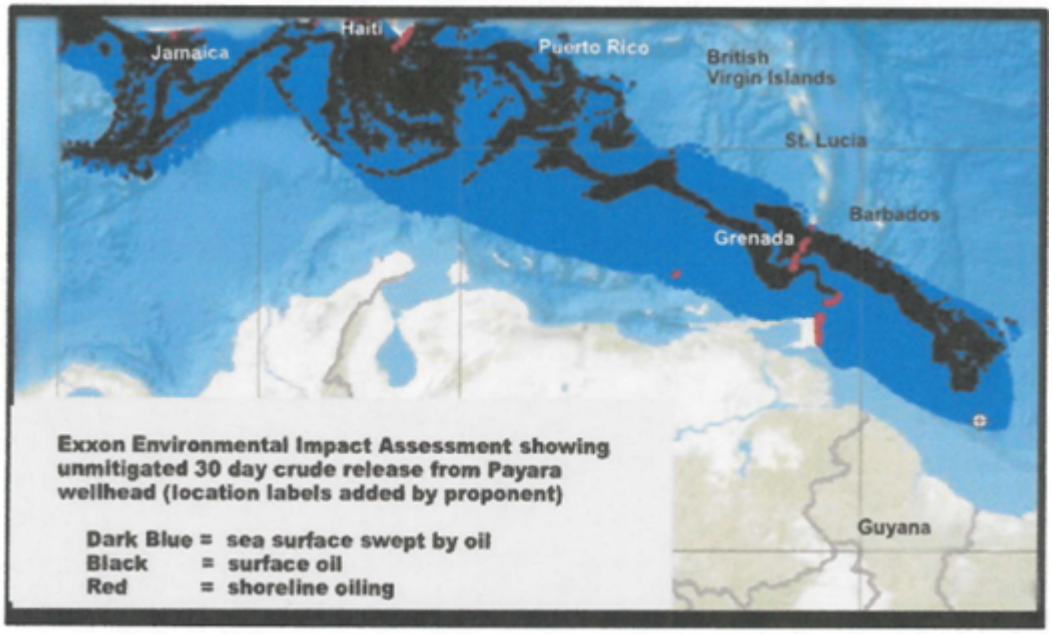
cc w/ att: James E. Parsons, Exxon Mobil Corporation

Mary Minette, Mercy Investment Services, Inc.

Exhibit A

Proposal

WHEREAS: ExxonMobil operates one of the largest oil plays discovered in the past decade, offshore of the South American country Guyana. After discovering oil in 2015, development proceeded rapidly. Production began in 2019, [1]with capacity expected to exceed one million bpd by 2030.[2]



CEO Darren Woods admitted ExxonMobil is exceeding design capacity for production in two offshore projects in Guyana.[3] Production in one project has reached 150,000 bpd, clearly above its listed peak production safety threshold of 120,000 bpd[4], raising concerns among observers.[5] A former director of Guyana's environmental protection agency called this "unheard of' and stated ExxonMobil is "without a conscience and ruthlessly taking advantage of an abysmal EPA and weak Government" in Guyana.[6] Other safety concerns include gas compressor failures resulting in fines exceeding US$10 million.[7]

Caribbean countries rely on tourism and fishing industries to support their economies, [8] yet ExxonMobil's Environmental Impact Assessment (EIA) characterizes residual risk to employment as minor and assumes that a large oil spill is unlikely.[9]

[1] https://corporate.exxonmobil.com/news/newsroom/news-releases/2022/0211_exxonmobil-starts-production-at-guyanas-second-offshore-development.

[2] https://newsroom.gy/2022/10/26/with-new-discoveries-oil-production-to-exceed-1-million-barrels-per-day-by-2030/

[3] https://fool.com/earnings/call-transcripts/2022/10/28/exxonmobil-xom-q3-2022-earnings-call-transcript/

[4] Liza Phase I EIA, p.38

[5] https://www.kaieteurnewsonline.com/2022/11/02/exxonmobil-ruthlessly-taking-advantage-of-slack-govt-abysmal-epa-by-violating-safe-production-limits-dr-adams/

[6] https://www.kaieteurnewsonline.com/2022/11/02/exxonmobil-ruthlessly-taking-advantage-of-slack-govt-abysmal-epa-by-violating-safe-production-limits-dr-adams/

[7] https://demearawaves.com/2022/07/26/exxonmobil-racks-up-us10-million-flaring-fine-installes-new-flash-gas-compressor-increases-liza-destinys-daily-output/

[8] https://www.fao.org/3/ax904e.pdf

[9] Payara EIA, Volume I, p. 1,002.

The BP Macondo oil spill released millions of barrels of oil into the Gulf of Mexico over 87 days and created a 57,500 square mile oil slick, exemplifying the risks of deep-water drilling.[10] BP stock plummeted 52% over two months.[11] Robert Bea, an expert on the Macondo spill, warns ExxonMobil shows “ignorance of risk management fundamentals” in its Guyana operations and mirrors overconfidence preceding the Macondo disaster.[12] The most severe spill scenario in ExxonMobil's EIA accounts for only a 30-day spill.[13]

President of Esso Exploration and Guyana Limited, Alistair Routledge, has stated “'there is no limit” to what ExxonMobil would do in response to an oil spill. ExxonMobil' s responsibility and potential liability are of concern to investors.

RESOLVED: Shareholders request that the Company issue a report evaluating the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. The report should be prepared at reasonable expense, omit proprietary or privileged information, and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies.

Supporting Statement: A “worst-case” should use adverse assumptions such as an extended duration of an uncontrolled release similar to the BP spill,[14] severe weather conditions, increased flow including risks from operating beyond the production thresholds in the EIA, and potential harm to marine ecosystems and public health.

[10] https://www.britannica.com/event/Deepwater-Horizon-oil-spill; *See also* https://www.epa.gov/enforcement/deepwater-horizon-bp-gulf-mexico-oil-spill#text=4%20million%20barrels%20of%20oil,be%20responsible%20for%20the%20spill.

[11] https://ruoney.cnn.com/2010/06/24/news/companies/BP_stock_price/index.htm

[12] https://www.theguardian.com/environment/2021/aug/17/exxon-oil-drilling-guyana-disaster-risk

[13] Payara EIA, Volume I, p. 839

[14] Newsroom Interview, https://www.facebook.com/watch/?v=1758505224495143

Sanford Lewis & Associates

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February 13, 2023

Via electronic mail

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Exxon Mobil Corporation Regarding Offshore Oil Drilling in Guyana by Mercy Investment Services, Inc.

Ladies and Gentlemen:

Mercy Investment Services, Inc. has submitted a shareholder proposal (the "Proposal") to Exxon Mobil Corporation (the "Company"). We have been asked by the Proponent to respond to the letter dated January 12, 2023 ("Company Letter") sent to the Securities and Exchange Commission by Louis Goldberg of Davis Polk & Wardwell LLP. In that letter, the Company contends that the Proposal may be excluded from the Company's 2023 proxy statement.

We have redacted personal information consistent with the Staff's guidance. A copy of this letter is being emailed concurrently to Louis Goldberg at louis.goldberg@davispolk.com.

SUMMARY

The Proposal requests that the Company issue a report evaluating the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies. The supporting statement specifies that a "worst-case" should use adverse assumptions such as an extended duration of an uncontrolled release similar to the bp spill, severe weather conditions, increased flow including risks from operating beyond the production thresholds in the EIA, and potential harm to marine ecosystems and public health.

Rule 14a-8(i)(10) Argument

The Company Letter asserts that the Company has substantially implemented the Proposal and therefore it may be omitted pursuant to Rule 14a-8(i)(10). The Company claims its existing impact assessments concerning its development projects in Guyana "directly address the potential economic, human and environmental impacts of what is termed a 'worst-case discharge scenario' from its operations offshore of Guyana."

However, the Company's reporting, including the assessment of its "worst-case discharge scenario" does not comport with the request of the Proposal to assess a worst-case oil spill as described in the Proposal. The disclosures in question, which were contemplated by the Proponent in drafting the Proposal, do not account for adverse assumptions requested by the guidelines of the Proposal including extended duration of a discharge similar to the bp oil spill, increased frequency of severe weather, and the elevated spill risk associated with known exceedance of peak sustained safety thresholds. Nor do the Company's disclosures evaluate the human health impacts of such a worst case spill, disclose the Company's cleanup response commitments given the potential for severe impact on Caribbean economies, or disclose the economic impact such a worst-case spill may have on surrounding Caribbean countries. Therefore, the Company has not substantially implemented the Proposal.

Inclusion of Proposal Graphic

Although not raised as part of the instant no action request, we also write concerning the Company's prior notice to the Proponent that the Company intends, in the event that the Proposal appears on the proxy, to exclude a graphic that is integral to the submitted Proposal. The Company publishes graphics in its proxy statement and provides no rationale consistent with Staff guidance for excluding the graphics from the Proposal. Therefore, we urge the Staff to clarify to the Company that it must include the graphic in the proxy statement.

PROPOSAL

The resolved clause and supporting statement of the Proposal are set forth below:

> RESOLVED: Shareholders request that the Company issue a report evaluating the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. The report should be prepared at reasonable expense, omit proprietary or privileged information, and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies.
>
> Supporting Statement: A "worst-case" should use adverse assumptions such as an extended duration of an uncontrolled release similar to the BP spill, severe weather conditions, increased flow including risks from operating beyond the production thresholds in the EIA, and potential harm to marine ecosystems and public health.

The full proposal is appended to this letter.

ANALYSIS

I. THE PROPOSAL IS NOT SUBSTANTIALLY IMPLEMENTED.

A. The Company's existing disclosures do not fulfill the essential objective or guidelines of the Proposal

The Company argues that the Proposal may be excluded from the 2023 Proxy Materials as substantially implemented pursuant to Rule 14a-8(i)(10). Specifically, the Company claims its existing impact assessments concerning its development projects in Guyana "directly address the potential economic, human and environmental impacts of what is termed a 'worst-case discharge scenario' from its operations offshore of Guyana."[1]

In order for the Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), it must show that its activities meet the guidelines and essential purpose of the Proposal. The Staff has noted that a determination that a company has substantially implemented a proposal depends upon whether a company's particular policies, practices, and procedures compare favorably with the guidelines of the proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a- 8(i)(10) requires a company's actions to have satisfactorily addressed both the proposal's guidelines and its essential objective. *See*, e.g., *Exelon Corp.* (Feb. 26, 2010). Where a company can demonstrate that it has taken action that meets most of the guidelines of a proposal and the proposal's essential purpose, the Staff has concurred that the proposal has been "substantially implemented." In the current instance, the Company has substantially fulfilled neither the guidelines nor the essential purpose of the Proposal.

Here, the Proposal's guidelines are that the Company report to shareholders an evaluation of the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana, including a clarification of the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies. The guidelines also specify that a worst-case spill involves a duration of oil release consistent with the bp Macondo release, and an assessment of the impact of a worst-case spill on human health and consider the added risks (probability and impact) associated with operations that exceed the safety conditions provided in the Company's prior disclosed Environmental Impact Assessment. As will be discussed below, the Company has met none of these guidelines.

The essential objective of the Proposal is to obtain an assessment of such worst-case conditions such that investors can assess the financial, reputational, and environmental risks of a spill of this magnitude. This is made clear in the whereas clauses of the Proposal, which note that the Company's responsibility and potential liability in event of a spill are of concern to investors. As will be discussed further below, the Company's existing disclosures fulfill neither the essential purpose nor guidelines of the Proposal. Thus, the Proposal is not substantially implemented by the Company.

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[1] Company Letter, p. 2.

The Proposal's Guideline	The Company's action	Assessing against the guideline
Evaluate impacts of a worst-case oil spill involving adverse assumptions such as an extended duration of an uncontrolled release and severe weather conditions	The Company evaluates a worst-case discharge scenario (WCD) for a single well	The WCD does not involve **adverse assumptions of worst-case spill defined by proposal:** - Extended duration of well release (~87 days) - Severe weather conditions (i.e., hurricanes) beyond historical weather data - Resulting further oil dispersion - Potential multi-well event
Evaluate economic impacts to Caribbean economies of worst-case spill	Minimizes the risk to Guyana's employment, ecosystem services, transportation, etc as "minor" because a spill is "unlikely".	Does not evaluate impact on Guyana against such a worst-case spill. Does not evaluate the economic impact of such a worst-case spill to surrounding countries
Evaluate economic and human health impacts of a worst-case spill	Describes WCD risk to healthcare infrastructure, cultural heritage, indigenous peoples and community health and well-being as "minor" because a spill is "unlikely"	Does not assess the human health impact against such a worst-case spill
Evaluate environmental impacts of a worst-case spill	Describes WCD impact on marine ecosystems and environment from a worst-case discharge and treats them as "minor" because a spill is "unlikely"	Does not assess environmental impact of such a worst-case spill
Assess risks from operating beyond the production thresholds…	The Company's environmental impact assessment describes safety thresholds	Current operations exceed safety thresholds and may significantly increase the risk of a spill. No assessment is provided.
Clarify extent of cleanup response commitments given potential for severe impact on Caribbean	The Company cites its oil spill response plan	Does not provide expected disclosures: – Estimate cost to clean up a worst-case spill (cost owed to Guyana *and* surrounding nations) - Disclose how clean-up will be funded

B. The Company's "worst-case" discharge scenario disclosures do not constitute an assessment of a "worst-case spill" consistent with the guidelines of the Proposal

The Company contends that the assessment requested by the Proposal is fulfilled by the Company's analysis of a "worst-case discharge scenario" (WCD). However, there is a massive difference between an assessment of a "worst-case spill" utilizing the adverse assumptions that the Proposal requests, and the Company's "worst-case discharge scenario". Therefore, the Company's disclosures are not consistent with the guidelines of the Proposal.

The worst-case discharge that the Company references is something of a misnomer. This is a discharge level fixed by regulation that is principally designed to allow oil spill emergency planning. It is a discharge that would occur over a limited number of days and is not fit for the purpose of identifying the worst human, economic or environmental impacts that can happen from the current operations.

> "For an exploratory drilling operation… the worst-case discharge scenario, WCD, is 'the daily volume possible from an uncontrolled blowout' and a description of how responders will address the '…spill volume upon arrival at the scene and then support operations for a blowout lasting 30 days.'"[2]

The Company notes that the "main purpose of a WCD calculation is to support oil spill response planning. The duration of the WCD release is typically 30 days unless shutting in the well with a capping stack or other technology is expected to occur earlier."[3]

For the purpose of its Payara Environmental Impact Assessment ("Payara Report") concerning the subject Guyana operations, the Company states it hired a third-party specialist which incorporated information for the six reservoirs to be developed as part of the Payara Project into its WCD simulation program and calculated six reservoir-specific WCDs ranging from 25,151 to 202,192 barrels of oil per day (BOPD). The Company selected two WCDs to model a potential Project well-control scenario with loss of containment: 20,000 barrels of oil per day and 202,192 barrels of oil per day. The Company notes in its report that its standard scenario for a loss-of-well- control event is 20,000 BOPD. The Company states since this was "very close" to the lowest of the calculated WCD rates (and therefore would be expected to produce similar modeling results), this scenario was modeled as the "Most Credible WCD." The highest of the calculated WCD rates, 202,192 BOPD, was modeled as the "Maximum WCD."[4]

In drafting the Proposal, the Proponent was aware of the impact assessments associated with the "maximum worst-case discharge scenario" produced by the Company as well as its limitations, and even included the spill map from the Company's Maximum WCD scenario in

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[2] Final Action Memorandum- Incident Specific Preparedness Review (ISPR) for Deepwater Horizon Oil Spill, R.J. Papp Jr, Commandant, United States Coast Guard, March 18, 2011, p. 36; *see also,* 30 CFR § 254.47; *see also,* 30 CFR § 254.26

[3] Payara EIA Vol. I, p. EIS-29

[4] Payara EIA Vol. I, p. EIS-29

the Proposal. However, as requested by the Proposal, the existing impact assessment fails to address the worst-case spill conditions and impacts requested by the guidelines of the Proposal.

Distinct from the Company's "worst-case discharge scenario," the Proposal requests an analysis of the impacts of a "worst-case *spill*," above and beyond the conditions implied by the limited scenario that the Company published. The Proposal indeed requests that the "worst-case spill" assessment should use adverse assumptions that are not in the company's assessment, particularly an extended duration of an uncontrolled release comparable to bp's 87 days of release and severe weather conditions, which would go beyond the historical data utilized by the Company.

An extended duration over a longer period than the 30 days in the WCD model by the Company could cause a higher volume of oil to be discharged and to be dispersed over a wider area than the Company's existing disclosures. The Proposal specifically requests that the assessment include a longer release consistent with the bp oil spill that discharged oil from the well for 87 days.[5] As will be discussed further below, severe weather conditions, such as hurricanes, can cause more rapid surface currents which can spread oil further than modeled in a WCD. The Company utilized "historical" weather conditions in its environmental impact assessment, but future weather conditions in light of climate change are likely to be more severe.

The purpose of the Company's WCD is to conduct rudimentary emergency response planning so that the Company can know in advance how to prioritize the mobilization of emergency response resources (manpower and equipment) to those areas most sensitive to a spill. The BP Macondo spill serves as an example of the distinction. The bp Macondo spill is the largest oil spill in the history of marine drilling operations. The estimated flow rate of the incident was almost 200,000 barrels per day *less* than the WCD reflected in bp's oil spill response plan.[6] Even considering the overcompensation of barrels per day in the WCD , the spill was catastrophic due to the fact that the flow rate from the well *still far exceeded* the capabilities of not only the oil spill removal organizations that bp had under contract, but also the capabilities of the additional national and international spill containment and recovery resources that were mobilized as well.[7] Even though the response plan was in compliance with government standards for response capability to address a WCD, real-time conditions differed from those modeled, and slowed the well capping and spill response and thereby increased the consequences.[8] The bp

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[5] https://www.dco.uscg.mil/OCSNCOE/Accidents-Investigations/DWH-Macondo/#:~:text=The%20casualty%20resulted%20in%20the,all%20along%20the%20Gulf%20Coast

[6] Final Action Memorandum- Incident Specific Preparedness Review (ISPR) for Deepwater Horizon Oil Spill, R.J. Papp Jr, Commandant, United States Coast Guard, March 18, 2011, p. 35;

The BP plan identified three different worst-case scenarios that ranged from 28,033 to 250,000 barrels of oil discharge/day, *See,* https://www.govinfo.gov/content/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf; The actual rate of the spill is estimated to be ~50,000–70,000 barrels/day, *See,* https://www.pnas.org/doi/10.1073/pnas.1112139108.

[7] Final Action Memorandum- Incident Specific Preparedness Review (ISPR) for Deepwater Horizon Oil Spill, R.J. Papp Jr, Commandant, United States Coast Guard, March 18, 2011, p. 35

[8] Final Action Memorandum- Incident Specific Preparedness Review (ISPR) for Deepwater Horizon Oil Spill, R.J. Papp Jr, Commandant, United States Coast Guard, March 18, 2011, p. 12

spill shows that even with WCD planning, external factors that WCDs fail to consider can impact spill conditions and response. That is why the Proposal requests that the Company go much further to evaluate particular adverse assumptions, which may lead to a worst-case spill scenario.

The Company's WCD also fails to account for heightened spill risks resulting from the Company operating its drilling operations above safety design thresholds.

We note in addition that not all Company Environmental Impact Assessments even include the maximum WCD that is included in the Payara assessment. Misleadingly, the Company notes in its Letter that "the information in the Payara Report is substantially comparable to the other Reports in terms of addressing the Proposal" and that "in each case, a Report includes an extensive evaluation on the potential economic, human and environmental impact of a worst-case discharge with respect to the project."[9] However, in our review of the related documents, we could not find the Company's own limited maximum worst-case discharge scenario in the Company's Environmental Impact Assessment for its Liza Phase I and Liza Phase II development projects.[10]

C. Extended Duration of an Uncontrolled Well Release

The supporting statement of the Proposal makes it clear that a "worst-case" should use adverse assumptions such as an extended duration of an uncontrolled well release similar to the bp Macondo spill. The Company's Letter contends that the WCD "tak[es] into account 'adverse assumptions' as requested by the Proposal[11]," such as an extended duration release. However, the WCD evaluated is only an uncontrolled well release lasting 30 days, and the Company's spill scenarios do not account for the potential of a longer term uncontrolled well release. When the Company refers in its Letter to a 54-day discharge, which is identified on the map included in the Proposal, the actual well release modeled only lasts for 30 days. The 54 days includes 24 days after a hypothetical well cap to show how released oil could travel.[12] To compare this time frame

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[9] Company Letter, p. 2-3.

[10] Liza I and Liza II EIA's fail to discuss "worst case discharge." In the Payara EIA ("Payara Report"), there are two worst case discharge scenarios considered, a "Most Credible WCD" and a "Maximum WCD." The "Most Credible WCD" in the Payara Report is a 20,000 barrel per day release, whereas the "Maximum WCD" is a 202,192 barrel per day release. Scenario 9, the most severe scenario in Liza Phase I, is a 20,000-Barrel-per-Day Release of Crude Oil for 30 days, far less than the Maximum WCD of Payara (202,192 bpd). This same scenario of 20,000 barrels per day is the most severe scenario, Scenario 13, in Liza Phase II's EIA. Thus, neither of these EIA's have evaluated a maximum WCD as in Payara. The Company notes "the next revision of [its Oil Spill Response Plan] (planned 4Q19) will include complementary modeling of a Liza Phase II well control event with loss of containment in alignment with US Gulf of Mexico practice (similar to Payara). " EEPGL Oil Spill Response Plan, Rev. 5, August 2019, p. 139 The Company says the same concerning Liza Phase I. Yet, to our knowledge, this updated oil spill response plan has yet to be released by the Company. Thus, it cannot be said that the Company discloses even this minimal information in each of its reports, *information that in any event would not be compliant with the request of the Proposal for assessment of the described worst-case conditions*, or that the Payara Report is substantially comparable to the reports of other development projects in Guyana, further emphasizing that the Company's disclosures do not fulfill the request of the Proposal.

[11] Company Letter, p. 2.

[12] Payara EIA Volume I, p. 9-47.

with the BP Macondo spill, the BP Macondo well **released** oil over 87 days.

D. Impacts of severe weather on scale, duration and dispersion of a spill event

As seen in the bp Macondo experience, adverse weather conditions can delay a clean up response. Many operations cannot be conducted during hazardous weather conditions. Such delays, in turn, may delay the ability to cap a well and increase the duration and the range of dispersion of the spill. For example, the Coast Guard halted bp Macondo disaster response due to safety concerns posed by Tropical Storm Bonnie nearing the Gulf of Mexico.[13] Thus, because of severe weather concerns, spill *length* may be interconnected with a delayed clean up response.

The Company's own Oil Spill Response Plan notes "an oil spill response … can be constrained by physical conditions, prevailing weather and sea conditions, and safety considerations."[14] Yet, the Company's existing Reports fail to consider the worst-case spill that can occur if adverse conditions, especially more severe weather associated with climate change, may delay a clean up response or extend the duration of an uncontrolled well release as well as dispersion of the oil. Such a delay clearly distinguishes the report requested regarding a worst-case spill from the scenario planning by the company using WCD.[15]

The catastrophic impact of global climate change has become increasingly evident in recent years, particularly in Guyana and the surrounding Caribbean. Global warming is dramatically increasing the risk of extreme hurricanes in the Caribbean, with both frequency and intensity of hurricanes increasing since 1970.[16] One study estimates if critical climate targets are not reached, hurricane frequency in the Caribbean will continue to increase dramatically.[17] The results of the study show that in a 2°C warmer world, an event of similar size to Hurricane Maria, a deadly Category 5 storm, would be more than twice (2.3 times) as likely, occurring once every 43 years.

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[13] https://usa.oceana.org/blog/hurricane-season-and-offshore-drilling-are-reckless-combination/

[14] Payara Volume III OSRP, p.20

[15] On March 20, 2022, the US EPA issued a Proposed Rulemaking on Clean Water Act Hazardous Substance Worst Case Discharge Planning. https://www.epa.gov/hazardous-substance-spills-planning-regulations/proposed-rulemaking-clean-water-act-hazardous#rule-summary The proposed rule relates to onshore rather than offshore spills, but illustrates the concern regarding the differences between current WCD scenarios that rely on historical weather data compared with a worst-case **spill** as climate change increases the severity of anticipated weather conditions. https://www.federalregister.gov/documents/2022/03/28/2022-05505/clean-water-act-hazardous-substance-worst-case-discharge-planning-regulations

The proposed rule would modify evaluations of a worst-case discharge "**to include the potential for increased incidence and severity of extreme weather events** due to climate change, as well as other climate change impacts." [emphasis added] This demonstrates that current WCD scenarios lack sufficient assumptions regarding adverse weather conditions that may constrain spill response and increase consequences such as the area of the spill, with the likelihood that "worst case spills" can be more severe than modeled WCDs. Current EPA regulations state "When planning for the amount of resources and equipment necessary to respond to the worst case discharge planning volume, adverse weather conditions must be taken into consideration" 40 CFR Appendix D to Part 112. The Proposed rule expands the definition of adverse weather conditions "to include the potential for increased incidence and severity of extreme weather events due to climate change, as well as other climate change impacts."

[16] https://www.carilec.org/the-impacts-of-climate-change-on-the-atlantic-hurricane-season/

[17] https://www.sciencedaily.com/releases/2020/08/200827130612.htm

Similarly, a 100-year storm affecting the Bahamas would be 4.5 times as likely under the 2°C Paris Agreement scenario compared to the present day.[18]

Hurricanes cause about 25% of offshore platform-related spills, thus an increased prevalence of storm activity could present greater risk of spill to the Company.[19] The Company's Payara Report notes that "the oil spill modeling conducted for the purpose of this EIA was based on **historical** environmental (wind, wave, and current) and hydrodynamic data."[20] However, given the potential increased frequency and intensity of hurricanes from climate change, the Company's assessment of a worst case spill should use not just historical data, but also contemporaneous and *predicted* data of weather events to assess potential spill impact and response.

To frame this potential impact in the timeline of the Company's Guyana operations, the Company's Payara Report notes that, for the project, it plans for "initial production by early 2023, with operations continuing for at least 20 years."[21] By just 2050, scientists estimate that intense hurricanes and typhoons could more than double in nearly all regions of the world because of climate change.[22] Researchers also found the wind speeds in these storms could increase by as much as 20%, as well as a tremendous increase in the frequency of category 4 and category 5 storms – by more than 200% in some regions.[23]

Thus, the Company's use of historical data does not account for the predicted frequency and intensity of severe weather from climate change. In fact, the Company justifies that "weather forecasts would provide advance notice of [extreme weather events] and would enable [the Company] to take appropriate operational precautions to reduce the chance of an oil spill under such conditions[24]." Given the projected increased frequency and intensity of hurricanes within the lifetime of the Company's Guyana operations, without the Company's use of predicted or current data, it cannot be said to have fulfilled the Proposal's request of using adverse assumptions of severe weather conditions.

The Company also uses historical *ocean current data* from 2005-2014 in its oil spill scenario mapping.[25] Increased hurricane frequency not only poses a greater risk of the duration of oil spills as discussed above, but also a potentially larger oil sweeping area due to faster currents.

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[18] https://www.sciencedaily.com/releases/2020/08/200827130612.htm

[19] Worst Case Discharge Analysis (Volume I), U.S. Department of the Interior Bureau of Safety and Environmental Enforcement (BSEE), p.11, https://www.bsee.gov/sites/bsee.gov/files/volume-i-wcd-discharge-analysis-report-13january2017.pdf

[20] Payara EIA Volume I, p. 9-13

[21] Payara EIA Volume I, p. EIS-13

[22] https://www.cnn.com/2022/04/27/weather/intense-tropical-cyclones-could-double-climate/index.html

[23] https://www.cnn.com/2022/04/27/weather/intense-tropical-cyclones-could-double-climate/index.html

[24] Payara EIA Volume I, p. 9-13

[25] "The time series data set defines three-dimensional currents at a 3-hour interval for the 10 years between 2005 and 2014. The data from the SAT-OCEAN current model were calibrated by current data measured at a location offshore Guyana (8.08°N, 56.95°W) during 2015." Payara EIA Volume I, p. EIS-30

Hurricanes bring intense wind speed, which causes ocean waves and surface currents to increase speed. This action may cause surface oil to spread faster, potentially devastating nearby coastlines. Hurricanes also cause faster under-surface currents, which can extend as far as 300 feet below the surface.[26] Thus, oil under the surface may also spread quickly through marine ecosystems, wreaking deadly havoc on marine life. For the same reasoning as outlined above, potential increased hurricane frequency and activity suggests the Company should be using contemporaneous and predicted data of ocean currents in spill modeling to adequately assess the impact of a spill.

Impacts of severe weather on oil and gas infrastructure

Hurricanes pose serious risk to oil and gas infrastructure, including refineries, oil-drilling and production platforms, and onshore storage terminals.[27]

Hurricane-induced damage to oil and gas infrastructure can be attributed to:

a) Excessive pipeline movement on the seabed due to loss of on-bottom stability under the extreme hydrodynamic loading during a storm.

b) Excessive pipeline movement due to the impact force from a mud slide.

c) Damage to the platform riser or the riser-to-pipeline tie-in due to excessive movement of the pipeline on the seabed.

d) Damage to the platform riser either due to an excessive platform movement during the storm or due to an inadequate design of the riser support clamps.

e) Damage from anchors and anchor lines of unattended drilling and construction vessels that drift off-site during the storm.[28]

Hurricane Ida, a devastating Category 4 hurricane impacting the Gulf of Mexico and Louisiana, triggered the most oil spills detected from space in the Gulf of Mexico, with the Coast Guard investigating nearly 350 reports of oil spills in and along the US Gulf Coast.[29] Hurricane Katrina triggered a series of spills that ultimately released about 10 million gallons into the Gulf, the same amount of oil as the 1989 Exxon Valdez disaster off Alaska.[30]

Although the oil and gas industry has recently been building offshore oil operations to withstand "100 year" severe weather events, including "up to" Category 5 storms.[31] In reality,

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[26] https://oceanservice.noaa.gov/facts/hurricanes-sea-life.html

[27] *See,* A.M. Cruz, E. Krausmann, *Damage to offshore oil and gas facilities following hurricanes Katrina and Rita: An overview*, Journal of Loss and Prevention in the Process Industries, 2008.

[28] J. S. Mand.ke, Ph.D., et. al, Evaluation Of Hurricane-Induced Damage To Offshore Pipelines, Southwest Research Institute, 1995, p. 1-3.

[29] https://www.nytimes.com/interactive/2021/09/26/climate/ida-oil-spills.html, see also https://www.theguardian.com/environment/2021/sep/06/hurricane-ida-oil-spills-gulf-coast

[30] https://www.nytimes.com/interactive/2021/09/26/climate/ida-oil-spills.html

[31] The National Ocean Industries Association asserts "offshore facilities built since 1988 are designed to withstand '100-year Storms.' a designation that includes everything **up to** Category 5 events" [emphasis

Category 5 is simply the most severe storm category and covers all storms with wind speeds greater than or equal to 157 mph. Therefore, there is a wide range of potential damage from Category 5 storms – for instance, even a storm such as Hurricane Dorian, which landed in the Bahamas with sustained winds of **185 mph and gusts up to 220 mph**, would be considered a Category 5.[32] A worryingly high number of platforms destroyed by Hurricanes Katrina and Rita were built less than 10 years ago, and followed the "100 year" criteria.[33] Several pipelines were also damaged during Hurricane Andrew in spite of their 100 year design criteria.[34]

In light of this and with evidence pointing towards more frequent and more intense hurricanes, there is concern among the industry and regulators that the 100-year criteria currently being utilized might not sufficiently protect offshore structures.[35] Therefore, as the effects of climate change continue to be realized, the worst-case spill should contemplate the possibility that offshore operations are not able to withstand the ***more extreme*** storms anticipated to result from climate change.

E. Worst case spill involves multiple well failures: Severe hurricanes could cause multiple oil spills across the Company's Guyana operations

The Company's Guyana operations consist of multiple development projects in a 6.6 million acre area called the Stabroek Block. The Company's website states:

> "ExxonMobil currently has four sanctioned projects offshore Guyana. Liza Phase 1 is producing approximately 130,000 barrels per day using the Liza Destiny floating production storage and offloading (FPSO) vessel. Liza Phase 2, which started production in February, is steadily ramping up to its capacity of 220,000 barrels per day using the Liza Unity FPSO. The third project, Payara, is expected to produce 220,000 barrels per day; construction on its production vessel, the Prosperity FPSO, is running approximately five months ahead of schedule with start-up likely before year-end 2023. The fourth project, Yellowtail, is expected to produce 250,000 barrels per day when the ONE GUYANA FPSO comes online in 2025."[36]

This brings the Company's potential daily oil production in the Stabroek Block to 820,000

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added].http://www.noia.org/wp-content/uploads/2013/03/326.pdf

[32] https://blogs.scientificamerican.com/eye-of-the-storm/hurricane-dorian-was-worthy-of-a-category-6-rating/

[33] *See,* A.M. Cruz, E. Krausmann, *Damage to offshore oil and gas facilities following hurricanes Katrina and Rita: An overview*, Journal of Loss and Prevention in the Process Industries, 2008, p. 625

[34] J. S. Mand.ke, Ph.D., et. al, Evaluation Of Hurricane-Induced Damage To Offshore Pipelines, Southwest Research Institute, 1995.

[35] *See,* A.M. Cruz, E. Krausmann, *Damage to offshore oil and gas facilities following hurricanes Katrina and Rita: An overview*, Journal of Loss and Prevention in the Process Industries, 2008, p. 625

[36] https://corporate.exxonmobil.com/news/newsroom/news-releases/2022/0426_exxonmobil-makes-three-new-discoveries-offshore-guyana-increases-stabroek-resource-estimate

barrels per day by 2025.[37]

Given the above discussed infrastructure damage caused by hurricanes and the proximity between the Stabroek Block's developments, a worst-case spill scenario, then, could include releases from multiple wells. With the Stabroek Block's combined daily production projected to be 820,000 bpd, such a scenario could cause a far greater amount of oil to be released into the Caribbean than the Company's limited single well release scenarios.

F. The Company has not substantially implemented disclosure of heightened risk from operating above peak production thresholds defined in the Company's existing impact assessments

The impact assessments cited in the Company Letter are built around safe production thresholds, and the Company has recently been reported to be exceeding the safe production threshold set forth in the Environmental Impact Assessment on at least one of its development projects in Guyana. Thus, the existing actions do not implement the Proposal's request that the requested assessment of a "worst-case spill" evaluate adverse assumptions including "risks from operating beyond the production thresholds in the EIA."

The Company's Liza Phase I development project includes the floating storage, production, and offloading (FSPO) vessel Liza Destiny. In the Liza Phase I Environmental Impact Assessment, the Company states the facility has "the potential to safely operate at sustained peaks of oil production up to approximately 120,000 bpd."However,[38] data produced by Guyana's Ministry of Natural Resources shows production for the Liza Destiny in September was at 150,000 barrels per day, clearly above this listed peak production threshold rate.[39]

Thus, assessment of the increased risks from operating beyond the reported thresholds in the EIA, including peak production threshold increasing the risk and magnitude of potential spills, is unaccounted for in the Company's existing impact assessments, and is therefore not implemented by the Company.

We note as well that the existing environmental impact assessment repeatedly characterizes the risk of a spill as "unlikely." This, in turn, minimizes the potential risks from a spill and further demonstrates that the existing impact assessments are inconsistent with the requested analysis of a worst-case spill. For example, the chart in the Company's Letter cites Section 9.9 of its Payara Impact Assessment, where the Company describes the potential risks of unplanned events on marine mammals. The consequence/severity rating of impact on marine mammals was considered "High" by the Company. Yet, the Company rationalized that the likelihood of a spill

[37] Since we note below that the Company is already operating overcapacity, the barrels per day could be even higher than that.

[38] The Liza Phase I EIA p. viii

[39] https://www.kaieteurnewsonline.com/2022/11/01/exxonmobil-ruthlessly-taking-advantage-of-slack-govt-abysmal-epa-by-violating-safe-production-limits-dr-adams/

was "unlikely" in order to lower that risk assessment to "moderate" for marine mammals.[40] In fact, the Company relies on its determination that a spill is "unlikely" in all assessment categories. The relative likelihood as well as magnitude of a potential spill may well be altered as the Company's operations exceed peak production thresholds described in its existing environmental impact assessments.

G. The Company has not substantially implemented the request for an evaluation of economic and public health impacts from a worst-case spill

The Company Letter highlights sections of its Payara Report, which, according to the Company, "describe[s] the potential impact on healthcare infrastructure, on cultural heritage, on indigenous peoples and on community health and well-being, including the potential harm to public health, as requested in the supporting statement of the Proposal."[41] The Company contends that this disclosure fulfills the Proposal's request to assess human impact of a worst-case oil spill scenario. However, as noted above, a worst-case oil spill for which we are requesting assessment would involve a release for a significantly longer duration with potentially much broader dispersion of oil than the Company has assessed and therefore the extent of human impact of the worst case described by the proposal is not assessed by the Company.

As is mentioned in the background of the Proposal, President of Esso Exploration and Guyana Limited, Alistair Routledge, has stated "'there is no limit" to what ExxonMobil would do in response to an oil spill. This raises questions for investors as to the extent of the Company's financial commitment, as well as how such a cleanup would be funded. Understanding the extent of the Company's responsibility and potential liability should therefore be of concern to investors.

H. The Company's existing disclosures do not discuss the estimated cost of a spill clean-up

The Proposal requests an evaluation of, among other things, the economic impact of a worst-case spill, and deliberately requests the report clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies. The Company's letter states that its "cleanup response commitment is described in Section 7 of

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[40] The Company's logic is outlined below:

"In combination with a likelihood rating of Unlikely for a marine oil spill, the (pre-mitigation) risk to marine mammals from a marine oil spill is considered Moderate."

The Company again uses this "unlikely" determination to further diminish the risk to marine mammals from a mitigated oil spill to "minor."

"Effective implementation of the [Oil Spill Response Plan] limit the geographic extent of the oil spill, the duration over which the spill would be present on the water surface, and the number of individual marine mammals potentially impacted. As such, this would be expected to reduce the intensity of the impact of a mitigated oil spill on marine mammals to Medium…**In combination with a likelihood rating of Unlikely for a marine oil spill, the residual risk to marine mammals from a mitigated marine oil spill would be Minor."**

Payara EIA, p. 9-137 - 9-138

[41] Company Letter, p. 4

Volume III of the Payara Report."[42] Only reading the language of the Proposal most narrowly can the Company claim to have fulfilled this part of the Proposal. The Company cites its environmental permit which states that "[t]he Permit Holder **shall bear all costs of the restoration, rehabilitation and compensation required as a result of damage incurred due to an oil spill** or other emergency resulting from the execution of the Project[43]" and shall "be **liable for any material or serious environmental harm caused by their pollution of the environment** in accordance with section 39 (2) and (4) of the Environmental Protection Act, Cap.20:05, Laws of Guyana.[44]"

However, the focus of the Proposal and the scope of worst-case spill impacts on environment and economy is intended to lead to disclosure of information on the potential cost to clean up a severe spill, and the damage incurred as a result of that spill. This information would be of material interest to investors.

I. The Company's existing economic impact assessments do not cover economic impact of a worst-case spill to surrounding Caribbean nations

The Company contends its Payara Report "describe[s] the potential impact on socioeconomic conditions, employment and livelihood, marine use, transportation, waste management infrastructure, use of land and ecosystem services."[45] Notably, these disclosures focus exclusively on impact to Guyana's GDP and its residents.

However, the Proposal distinctly states that the risk of a spill also presents a potential for severe impact on *Caribbean economies*. The map included in the Proposal, reprinted below, depicts one of the Company's modeled WCD spill scenarios.

The scenario shows that a spill significantly less severe than the requested "worst-case spill" of longer duration than the one modeled by the company could already be expected to spread to Caribbean countries including Jamaica, Haiti, Puerto Rico, British Virgin Islands, St. Lucia, Grenada, and Barbados. The Company itself notes the Guiana Current – a strong, nearly year-round westerly flowing current along the coast of Guyana – increases the probability of an oil spill impacting the coastal zones of nearby countries to the north and west.[46] Yet, the Company has not disclosed the extent of the economic impact of a worst-case spill on these economies, nor the extent of the Company's cleanup response commitments within those regions.

[42] Company Letter, p. 8.
[43] Liza Phase I Environmental Permit, § 10.1, p. 21.
[44] Liza Phase I § 14.12, p. 37
[45] Company Letter, p. 3
[46] Payara EIA Volume I, p. EIS-30

Graphic based on the Company's WCD assessment,
based on limited duration oil spill and historical weather conditions

Many of these countries rely on fishing and ecotourism to support their economies. Statistics indicate that the tourism industry in the British Virgin Islands generates an estimated 45% of the national income.[47] A spill in this region could be catastrophic to the economy of the British Virgin Islands and surrounding nations. In CARICOM (Caribbean Community) countries, of which Guyana is a member, at least 64,000 persons are directly employed in small-scale fisheries and aquaculture and an estimated 180,000 people are involved in fish processing, retail, boat construction, net repair and other related activities.[48] To compare this data with a historic large-scale spill, after the BP Macondo spill in the Gulf of Mexico, shrimp landings decreased by 32% in Louisiana, 60% in Mississippi, 56% in Alabama and nearly 15% in Texas, while increasing by nearly 15% for the Florida west coast. Fish landings of the Menhaden species in Louisiana also decreased by 171 million pounds (17%).[49]A study by the U.S. Bureau of Ocean Energy Management estimated that within just the first 8 months of the spill, the disaster cost the Gulf's fishing industry $94.7 million to $1.6 billion and anywhere from 740 to 9,315 jobs.[50]

Beyond the Company's financial responsibility to Guyana to clean a worst-case spill, the Company has a financial responsibility to countries surrounding Guyana under international law.[51] Given this liability, the potential cost owed to surrounding countries to clean up a worst-

[47] https://www.nationmaster.com/country-info/profiles/British-Virgin-Islands/Economy

[48] https://www.fao.org/3/ax904e/ax904e.pdf

[49] https://sgp.fas.org/crs/misc/R41640.pdf

[50] https://www.nola.com/news/environment/article_462806af-c1e5-5712-9608-31b125c43c8c.html

[51] Under Guyana's Environmental Protection Act, each Environmental Permit issued by the Environmental Protection Agency must contain a condition that "the developer shall have an obligation to comply with any directions by the Agency where compliance with such directions are necessary for the implementation of any obligations of Guyana under any treaty or international law relating to environmental protection; and the developer shall have an obligation to restore and rehabilitate the environment."Guyana Environmental Protection Act, §13(1)(d)-(e), https://mlgrd.gov.gy/wp-content/uploads/2016/07/Guyana_Enivironmental_Protection_Act_1996.pdf , p. 21 In fact, the Company's Environmental Permit for Liza Phase I states

case spill should be of concern to investors.

Without information concerning how a true worst case spill could impact the Caribbean economies within the potential impact zone of its Guyana operations, the Company cannot be said to have substantially implemented the Proposal.

To summarize, the Company has provided no basis for a conclusion that it has substantially implemented the Proposal with its existing actions and therefore the no action request should be denied.

II. THE COMPANY MUST INCLUDE THE PROPOSAL'S GRAPHICS IN ITS PROXY STATEMENT.

On December 12, 2022, the Company notified the Proponent ("Graphics Letter"), that if the no action request is denied, it intends to exclude the Proposal's graphic from its proxy statement. (Graphics Letter is Appended). The Company stated it did "not plan to re-print the color graphic included in [our] submission." And that it has "a longstanding practice of using only words, with no pictures or graphics, in the portion of [its] proxy statement devoted to shareholder proposals and responses."

We believe this is inconsistent with the position of the Staff. Staff Legal Bulletin 14L, states "the Division is of the view that Rule 14a-8(d) does not preclude shareholders from using graphics to convey information about their proposals."[52] Staff Legal Bulletin 14L also notes that "Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics."[53]

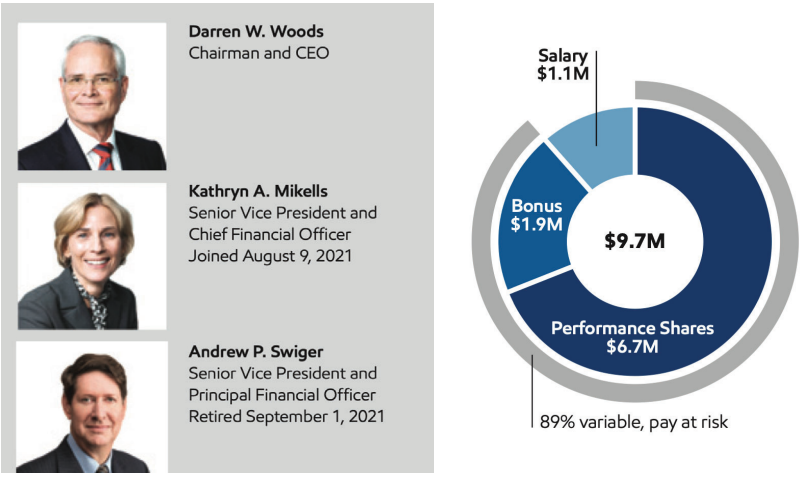
Moreover, ExxonMobil has included its own graphics in its proxy statement, printed in color. Here are a couple of examples from the 2022 proxy statement:

> "the Permit Holder shall comply with any directions which the Agency gives from time to time, including but not limited to, those directions given in furtherance of the implementation of any international or other obligation under any treaty or International Law related to the environmental protection of Guyana and surrounding regions likely to be affected (including neighbouring South American Coast and Caribbean Sea)." Liza Phase I Environmental Permit, § 1.2, p. 2

The Company may, then, be liable under International Law to neighboring countries including the CARICOM nations. For example, Guyana has ratified the Escazú Agreement, a regional agreement on access to information, public participation and justice in environmental matters in Latin America and the Caribbean. Parties to the agreement agree to "guarantee the right of every person to live in a healthy environment and any other universally-recognized human right related to the present Agreement." Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Article IV § 1, https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf, p. 16.

[52] https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals#_ftnref15

[53] https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals#_ftnref15, *see also,* General Electric Co. avail February 23, 2017



The Company attempts to distinguish these other parts of the proxy statement that contain graphics to rationalize the noninclusion of the graphics in the proxy. However, consistent with the Staff Legal Bulletin, it is clear that in this instance the Company includes graphics of its own in the proxy statement and it therefore follows that the Company should include the graphic in the proponent's submission in its proxy statement, giving it similar prominence to its own graphics.

The Staff has stated exclusion of graphics/images is appropriate under Rule 14a-8(i)(3) where they:

- make the proposal materially false or misleading;
- render the proposal so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing it, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires;
- directly or indirectly impugn character, integrity or personal reputation, or directly or indirectly make charges concerning improper, illegal, or immoral conduct or association, without factual foundation; or
- are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.

The Company has made no claim that any of these factors apply to the proposal's graphic. The inclusion of our graphic in the Proposal is directly relevant to the subject matter of our Proposal and presents none of the above-stated issues. To add insult to injury, the Graphics Letter also prejudged the advocacy value of the graphic, taking the liberty of adding "**We also believe that the intent of your proposal is sufficiently clear to a reasonable investor without**

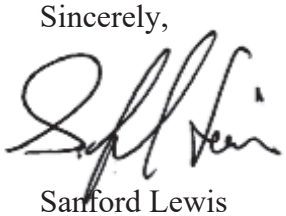
a graphic." We believe it is not appropriate for the Company to decide whether the Proponent's proposal is clear enough to investors without the addition of the graphic. In fact, it is the Proponent's opinion that the graphic provides dramatic and persuasive advocacy impact for shareholders, and that it should not be excluded.

Therefore, we request from the Staff a determination that the Company must include the graphic within the Proposal in its 2023 Proxy Statement, and that if the Company chooses to exclude the graphic it would be a violation of the proxy rules as it would involve omission of a materially important part of the Proposal as presented to the Company.

CONCLUSION

The Company's existing disclosures fail to fulfill the essential objective and guidelines of the Proposal and the Company has provided no basis for the conclusion that the Proposal is excludable under 14a-8(i)(10). As such, we respectfully request that the Staff inform the Company that it is denying the no action letter request, and further that the Company must, in the opinion of the Staff, include the graphic with the Proposal.

Sincerely,

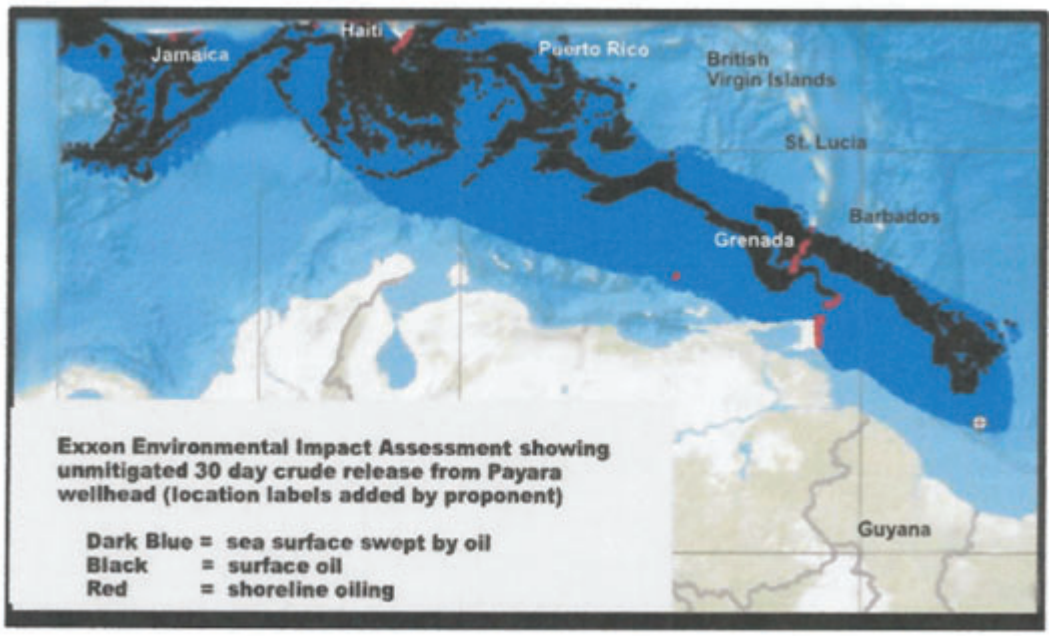


Sanford Lewis

Kendall McPherson

Proposal

WHEREAS: ExxonMobil operates one of the largest oil plays discovered in the past decade, offshore of the South American country Guyana. After discovering oil in 2015, development proceeded rapidly. Production began in 2019, [1]with capacity expected to exceed one million bpd by 2030.[2]



CEO Darren Woods admitted ExxonMobil is exceeding design capacity for production in two offshore projects in Guyana.[3] Production in one project has reached 150,000 bpd, clearly above its listed peak production safety threshold of 120,000 bpd[4], raising concerns among observers.[5] A former director of Guyana's environmental protection agency called this "unheard of' and stated ExxonMobil is "without a conscience and ruthlessly taking advantage of an abysmal EPA and weak Government" in Guyana.[6] Other safety concerns include gas compressor failures resulting in fines exceeding US$10 million.[7]

Caribbean countries rely on tourism and fishing industries to support their economies, [8] yet ExxonMobil's Environmental Impact Assessment (EIA) characterizes residual risk to employment as minor and assumes that a large oil spill is unlikely.[9]

[1] https://corporate.exxonmobil.com/news/newsroom/news-releases/2022/0211_exxonmobil-starts-production-at-guyanas-second-offshore-development.

[2] https://newsroom.gy/2022/10/26/with-new-discoveries-oil-production-to-exceed-1-million-barrels-per-day-by-2030/

[3] https://fool.com/earnings/call-transcripts/2022/10/28/exxonmobil-xom-q3-2022-earnings-call-transcript/

[4] Liza Phase I EIA, p.38

[5] https://www.kaieteurnewsonline.com/2022/11/02/exxonmobil-ruthlessly-taking-advantage-of-slack-govt-abysmal-epa-by-violating-safe-production-limits-dr-adams/

[6] https://www.kaieteurnewsonline.com/2022/11/02/exxonmobil-ruthlessly-taking-advantage-of-slack-govt-abysmal-epa-by-violating-safe-production-limits-dr-adams/

[7] https://demearawaves.com/2022/07/26/exxonmobil-racks-up-us10-million-flaring-fine-installes-new-flash-gas-compressor-increases-liza-destinys-daily-output/

[8] https://www.fao.org/3/ax904e.pdf

[9] Payara EIA, Volume I, p. 1,002.

The BP Macondo oil spill released millions of barrels of oil into the Gulf of Mexico over 87 days and created a 57,500 square mile oil slick, exemplifying the risks of deep-water drilling.[10] BP stock plummeted 52% over two months.[11] Robert Bea, an expert on the Macondo spill, warns ExxonMobil shows “ignorance of risk management fundamentals” in its Guyana operations and mirrors overconfidence preceding the Macondo disaster.[12] The most severe spill scenario in ExxonMobil's EIA accounts for only a 30-day spill.[13]

President of Esso Exploration and Guyana Limited, Alistair Routledge, has stated “'there is no limit” to what ExxonMobil would do in response to an oil spill. ExxonMobil' s responsibility and potential liability are of concern to investors.

RESOLVED: Shareholders request that the Company issue a report evaluating the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. The report should be prepared at reasonable expense, omit proprietary or privileged information, and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies.

Supporting Statement: A “worst-case” should use adverse assumptions such as an extended duration of an uncontrolled release similar to the BP spill,[14] severe weather conditions, increased flow including risks from operating beyond the production thresholds in the EIA, and potential harm to marine ecosystems and public health.

[10] https://www.britannica.com/event/Deepwater-Horizon-oil-spill; *See also* https://www.epa.gov/enforcement/deepwater-horizon-bp-gulf-mexico-oil-spill#text=4%20million%20barrels%20of%20oil,be%20responsible%20for%20the%20spill.

[11] https://ruoney.cnn.com/2010/06/24/news/companies/BP_stock_price/index.htm

[12] https://www.theguardian.com/environment/2021/aug/17/exxon-oil-drilling-guyana-disaster-risk

[13] Payara EIA, Volume I, p. 839

[14] Newsroom Interview, https://www.facebook.com/watch/?v=1758505224495143

Exxon Mobil Corporation
5959 Las Colinas Boulevard
Irving, Texas 75039-2298

Jennifer Driscoll
Vice President, Investor Relations

VIA EMAIL

December 12, 2022

Mary Minette
Director of Shareholder Advocacy
Mercy Investment Services, Inc.
2039 North Geyer Road
St. Louis, MO 63131-3332

Dear Ms. Minette:

Thank you for your interest in ExxonMobil. This will acknowledge receipt of the proposal concerning an economic, human and environmental impacts report (the "Proposal"), which you have submitted on behalf of Mercy Investment Services, Inc. (the "Proponent") in connection with ExxonMobil's 2023 annual meeting of shareholders. By copy of a letter from The Northern Trust Company, share ownership has been verified.

Please be aware that we do not plan to re-print the color graphic included in your submission. We have a longstanding practice of using only words, with no pictures or graphics, in the portion of our proxy statement devoted to shareholder proposals and responses. We declined to accept images from other proponents as well and need to be consistent in our policies. We also believe that the intent of your proposal is sufficiently clear to a reasonable investor without a graphic.

You should note that, if the Proposal is not withdrawn or excluded, you or your representative, who is qualified under New Jersey law to present the Proposal on the Proponent's behalf, must attend the annual meeting in person to present the Proposal. Under New Jersey law, only shareholders or their duly constituted proxies are entitled as a matter of right to attend the meeting.

If you intend for a representative to present the Proposal, you must provide documentation that specifically identifies your intended representative by name and specifically authorizes the representative to act as your proxy at the annual meeting. To be a valid proxy entitled to attend the annual meeting, the representative must have the authority to vote your shares at the meeting. A copy of this authorization meeting state law requirements should be sent to my attention in advance of the meeting. The authorized representative should also bring an original signed copy of the proxy documentation to the meeting, together with photo identification if requested, so that our counsel may verify the representative's authority to act on your behalf prior to the start of the meeting.

In the event there are co-filers for this Proposal and in light of the guidance in SEC Staff Legal Bulletin No. 14F dealing with co-filers of shareholder proposals, it is important to ensure that the lead filer has clear authority to act on behalf of all co-filers, including with respect to any potential negotiated withdrawal of the Proposal. Unless the lead filer can represent that it holds such authority on behalf of all co-filers, and considering SEC staff guidance, it will be difficult for us to engage in productive dialogue concerning this Proposal.

Note that under Staff Legal Bulletin No. 14F, the SEC will distribute no-action responses under Rule 14a-8 by email to companies and proponents. We encourage you and all proponents and any co-filers to include an email contact address on any additional correspondence to ensure timely communication in the event the Proposal is subject to a no-action request.

We are interested in discussing this Proposal and will contact you in the near future.

Sincerely,

JKD/sme

Davis Polk

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017
davispolk.com

February 24, 2023

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the "**Company**"), we are writing to respond to the letter from Sanford J. Lewis and Kendall McPherson on behalf of Mercy Investment Services, Inc. (the "**Proponent**") dated February 13, 2023 (the "**Proponent Response Letter**") with respect to the Company's no-action letter request dated January 12, 2023 (the "**No-Action Letter**") regarding the shareholder proposal (the "**Proposal**") submitted by the Proponent for inclusion in the proxy materials the Company intends to distribute in connection with its 2023 Annual Meeting of Shareholders (the "**2023 Proxy Materials**"). Capitalized terms not defined herein are used as defined in the No-Action Letter. Copies of the No-Action Letter and the Proponent Response Letter (each without attachments) are attached hereto as Exhibit A and Exhibit B, respectively. We have been advised by the Company as to the factual matters set forth herein.

1. **As Described in the No-Action Letter, the Company's Extensive Environmental Impact Assessments Related to Its Guyana Operations Substantially Implement the Proposal.**

The Proposal's "essential objective" is its request that "the Company issue a report evaluating economic, human and environmental impacts of a worst-case oil spill from its operation offshore of Guyana." The Company has satisfied the "essential objective" of the Proposal, in that it has already issued extensive environmental impact assessments related to each of its development projects in Guyana (each individually, a "**Report**," and collectively, the "**Reports**"). Each Report directly addresses the potential "economic, human and environmental" impacts of a "worst-case discharge scenario" from the operating locations covered by such Report. Taken together, these Reports directly address such potential impacts related to all of the Company's operations offshore of Guyana.

The Reports are all publicly available on the Guyana Environmental Protection Agency's website, a link to which is located on a Company webpage dedicated to its "Environmental Efforts in Guyana."[1] Selected Reports, and the Company's Oil Spill Response Plan for its Guyana Operations, are also hosted directly on that webpage.

In addition to satisfying the "essential objective" of the Proposal, the Reports also compare favorably with, and thus substantially implement, the guidelines of the Proposal. The No-Action Letter describes in great detail one representative example, the Payara Report, to specifically illustrate how the Reports address the Proposal and its guidelines on a line-by-line basis, including those guidelines that pertain to the use of

[1] https://corporate.exxonmobil.com/locations/guyana/environmental-efforts-in-guyana.

"adverse assumptions" to define a "worst-case oil spill" and to evaluate the potential "economic, human and environmental impacts" of such a "worst-case."

The Company understands that the Proponent may disagree with the "adverse assumptions" used and the evaluations made in the Reports. Nevertheless, that does not mean that the information and analysis requested by the Proposal have not been provided. Management is best-positioned and best-qualified to make decisions and exercise judgment regarding which assumptions are applicable to, and which scenarios ought to underlie, the evaluations made in the Reports. It is not appropriate for such discretion concerning Company operations and risk to be held by the Proponent, nor should such discretion be second-guessed by the Proponent. Notwithstanding any disagreement regarding which "adverse assumptions" should be used in the Company's assessment, the Company believes that the Reports substantially implement the "essential objective" of the Proposal, and that the Reports are consistent with and responsive to the guidelines described therein. Furthermore, these are not the kinds of decisions and judgments on risks, scenarios and assumptions that can be made by shareholders.

2. The Description of the Guidelines Set Forth in the Proponent Response Letter is Inconsistent with those in the Text of the Proposal.

The Proponent Response Letter appears to reframe or mischaracterize certain elements of the Proposal in a way that seeks to sidestep or selectively ignore the responsiveness of the Reports to the Proposal and, thus, its substantial implementation.

a. "Worst-Case"

For example, the Proponent Response Letter indicates that a "worst-case oil spill" *must* be defined as "an extended duration of an uncontrolled release comparable to bp's 87 days of release and severe weather conditions," among other specific factors. However, the actual wording of the Proposal's supporting statement simply notes that "[a] 'worst-case' should use adverse assumptions *such as* an extended duration of an uncontrolled release similar to the BP spill, severe weather conditions" and other suggested factors (emphasis added). These listed factors in the supporting statement are framed as examples – not strict requirements – of the kinds of "adverse assumptions" that can inform the Company's evaluation of a "worst-case."

As described in detail in the No-Action Letter, the Reports directly address the potential impacts of what is termed a "worst-case discharge scenario" from the Company's operations offshore of Guyana. The Reports' definition of "worst-case" does take into account various "adverse assumptions" and adheres to the U.S. Bureau of Ocean Energy Management's own definition of "worst case discharge": "the single highest daily flow rate of liquid hydrocarbon during an uncontrolled wellbore flow event."[2] For example, the "worst-case

[2] Environmental Impact Assessment - Esso Exploration and Production Guyana Limited, July 2020, Revision 4 - Payara Development Project

discharge scenario" models described in the Payara Report consider "adverse assumptions" that compare favorably with the guidelines of the Proposal, including but not limited to:

- extended duration (e.g., maximum worst-case discharge scenario of 202,192 barrels per day for 30 days with no remediation efforts for up to 24 additional days);
- uncontrolled release (e.g., lack of mitigation efforts or flow restrictions to control the release);
- severe weather (e.g., natural conditions and seasonal differences between winter and summer); and
- flow rate (e.g., open well condition in which no flow restriction or well technologies are in operation).

The Reports' definition of "worst-case" is also in compliance with international standards and follows the guidance established in the Guyana National Oil Spill Contingency Plan.

The "worst-case discharge" modeling scenarios undertaken by the Company and published in the Reports were simulated based on both unmitigated discharges (i.e., without any emergency response) and mitigated discharges (i.e., use of capping stacks, mechanical methods, in-situ burning, and dispersants). It is important to note that, in the years following the Macondo incident referenced in the Proposal, the oil and gas industry and its partners have developed a world-wide network of oil spill mitigation equipment that was not available in 2010. The Company believes that the use of 30 days for "worst-case" discharge modeling for an unmitigated response is conservative given the advances the industry has made since 2010. Furthermore, the U.S. Department of Interior's Bureau of Safety and Environmental Enforcements' Worst Case Discharge Analysis (Volume I, February 2016), states that although "worst-case discharge" modeling scenarios "present an extremely dire representation of the potential for contact between the discharged oil and the environment, they do provide a working baseline of datum that will be useful for further analysis."[3] In order for such a baseline to be useful in the Company's evaluation of a "worst-case," it must reflect current industry standards and practices, and it must reflect adverse assumptions that have a reasonable possibility of occurring. The Proponent Response Letter apparently seeks to impute a baseline of datum onto the Company that is inconsistent with the judgment and analysis of Company management and regulatory standard setters.

b. "Design Capacity"

Another example of post hoc mischaracterization in the Proponent Response Letter relates to language in the Proposal's supporting statement alleging that the Company is "operating beyond the production thresholds in the Environmental Impact Assessment". This allegation appears to be rooted in Proponent's misunderstanding of the engineering concept of "exceeding design capacity." The Proponent correctly points out that the Company has publicly stated that certain offshore projects in Guyana are "exceeding design capacity." However, this concept is unrelated to "production thresholds" (the term used in the Proposal) or "safety thresholds" (the term introduced in the Proponent Response Letter). Rather, when the Company indicates that an asset is producing above "design capacity," it simply means that the production volume is above the investment basis or, in other words, performance is exceeding expectations.

In any event, while the Proposal's supporting statement maintains that the definition of "worst-case" should include the adverse assumption of operating beyond "production thresholds," the Proposal Response Letter now asserts that the definition of "worst-case" must address risks resulting from operating above "safety thresholds." In both cases the Proponent displays a misunderstanding of the concept of "design capacity." The actual volume that is safe to produce is well above what the Company considers the "design capacity." Therefore, producing above "design capacity" in no way indicates that an asset is producing at an unsafe level. The Company takes very seriously the safety requirements at all of its sites. Furthermore, the concept

[3] https://www.bsee.gov/sites/bsee.gov/files/volume-i-wcd-discharge-analysis-report-13january2017rev1.pdf.

of “design capacity;” and its relationship to production and safety thresholds was explained to the Proponent during a conference call on January 17, 2023. The Proponent seemed to understand the explanation and indicated that this particular concern was resolved. It is unclear why the matter was raised again in the Proponent Response Letter nearly a month later.

3. **In the Event that the Proposal is Not Excluded, the Company will Include the Proposal’s Graphic in the Proxy Materials.**

The Proponent Response Letter requests that, in the event that the Proposal appears in the Company’s Proxy Materials, the Company include the graphic used in the Proposal. Should the Proposal not be excluded, the Company will include the graphic used in the Proposal in its Proxy Materials.

CONCLUSION

The Proponent Response Letter contains numerous other incidents of reframing or mischaracterizing language from the Proposal or the No-Action Letter in an apparent effort to sidestep or selectively ignore the responsiveness of the Reports to the Proposal.

Nevertheless, the Company’s Reports satisfy the “essential objective” of the Proposal and compare favorably with its guidelines. Although the Proponent Response Letter attempts to wrest language and reframe elements of the Proposal, the Company continues to believe that it has substantially implemented the Proposal as described in the methodical, line-by-line analysis of the No-Action Letter.

For these reasons, the Company continues to believe that it may exclude the Proposal from its 2023 Proxy Materials pursuant to Rule 14a-8(i)(10).

We would be happy to provide you with any additional information and answer any questions that you may have regarding this supplement to the No-Action Letter. Please do not hesitate to call me at (212) 450-4539 or contact James Parsons at james.e.parsons@exxonmobil.com.

Respectfully yours,

Louis Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation

Mary Minette, Mercy Investment Services, Inc.

Sanford Lewis

Exhibit A

Davis Polk

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017
davispolk.com

January 12, 2023

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the "**Company**"), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), we are filing this letter with respect to the shareholder proposal (the "**Proposal**") submitted by Mercy Investment Services, Inc. (the "**Proponent**") for inclusion in the proxy materials the Company intends to distribute in connection with its 2023 Annual Meeting of Shareholders (the "**2023 Proxy Materials**"). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the "**Staff**") will not recommend any enforcement action with respect to the 2023 Proxy Materials if, in reliance on Rule 14a-8(i)(10), the Company omits the Proposal.

Pursuant to Staff Legal Bulletin No. 14D (CF), Shareholder Proposals (Nov. 7, 2008), Question C, we have submitted this letter via email to shareholderproposals@sec.gov. Also, in accordance with Rule 14a-8(j), a copy of this submission is being sent simultaneously to the Proponent as notification of the Company's intention with respect to the Proposal. This letter constitutes the Company's statement of the reasons set forth herein. We have been advised by the Company as to factual matters set forth herein.

THE PROPOSAL

The Proposal states:

> RESOLVED: Shareholders request that the Company issue a report evaluating the economic, human and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. The report should be prepared at reasonable expense, omit proprietary or privileged information, and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies.

REASON FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2023 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company has already substantially implemented the Proposal.

The Company May Omit the Proposal Pursuant to Rule 14a-8(i)(10) Because the Proposal Has Been Substantially Implemented by the Company's Extensive Environmental Impact Assessments Related to Its Guyana Operations.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if the company has already substantially implemented the proposal. According to the Commission, the purpose of this rule is to "avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by management." *See* Exchange Act Release No. 34-20019 (Aug. 15, 1983); Exchange Act Release No. 34-12598 (July 1976). The Commission has stated that "substantial" implementation under the rule does not require implementation in full or exactly as presented by the proponent. *See* Exchange Act Release No. 34-40018 (May 21, 1998, n.30).

The Staff has consistently found that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *See Texaco, Inc.* (Mar. 28, 1991). *See also, e.g. BlackRock, Inc.* (Apr. 2, 2021); *JPMorgan Chase & Co.* (Mar. 9, 2021); *Devon Energy Corp.* (Apr. 1, 2020); *Johnson & Johnson* (Jan. 31, 2020); *Pfizer Inc.* (Jan. 31, 2020); *The Allstate Corp.* (Mar. 15, 2019); *Johnson & Johnson* (Feb. 6, 2019); *United Cont'l Holdings, Inc.* (Apr. 13, 2018); *eBay Inc.* (Mar. 29, 2018); *Kewaunee Scientific Corp.* (May 31, 2017); and *Wal-Mart Stores, Inc.* (Mar. 16, 2017).

Further, the Staff has provided no-action relief under Rule 14a-8(i)(10) when a company has substantially implemented and therefore satisfied the "essential objective" of a proposal, even if the company did not take the exact action requested by the proponent, did not implement the proposal in every detail, or exercised discretion in determining how to implement the proposal. *See IDACORP Inc.* (Apr. 1, 2022) (proposal requesting a report disclosing short-, medium- and long-term greenhouse gas targets aligned with the Paris Agreement, where the company's ESG Report already disclosed targets); *Exxon Mobil Corp.* (Mar. 9, 2021) (proposal requesting a report on the risk of stranded assets related to environmental impacts of its petrochemical investments, where the company had already published a report addressing the same matters); *Chevron Corp.* (Mar. 20, 2020) (proposal requesting a report describing the company's plans to reduce its total contribution to climate change and align its operations and investments with the Paris Agreement, where the company had already published a report addressing the same matters).

The essential objective of the Proposal is for the Company to conduct an evaluation and issue a report assessing the economic, human and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. The Company has already developed detailed plans, conducted extensive evaluations and issued an environmental impact assessment related to each of its development projects in Guyana (each individually, a "**Report**", and collectively, the "**Reports**"), which directly address the potential economic, human and environmental impacts of what is termed a "worst-case discharge scenario" from its operations offshore of Guyana. Taking into account "adverse assumptions" as requested by the Proposal, the Reports define a worst-case discharge scenario in accordance with the U.S. Bureau of Ocean Energy Management's definition: the single highest daily flow rate of liquid hydrocarbon during an uncontrolled wellbore flow event.

In each case, a Report includes an extensive evaluation on the potential economic, human and environmental impact of a worst-case discharge with respect to the project, and each Report is sufficiently detailed so that the Reports, taken as a whole, then ultimately cover such impacts with respect to all of the Company's operations offshore of Guyana. The Reports are all publicly available via a link, located on the Company's dedicated webpage to its "Environmental Efforts in Guyana" (the "**Company Website**")[1], to the

[1] https://corporate.exxonmobil.com/locations/guyana/environmental-efforts-in-guyana.

section of the Guyana Environmental Protection Authority's website that has posted all of the Report. The Company Website also provides a brief overview of these environmental efforts.

As just one representative example of the Company's existing, extensive public reporting, the Company has publicly issued an environmental impact assessment of its Payara development project that addresses a wide variety of potential unplanned events, including an offshore oil spill (defined as a "**Marine Oil Spill**" in this document). All three volumes of the Payara environmental impact assessment (the "**Payara Report**") are publicly available and posted directly on the Company Website along with certain other key Reports and the Company's Oil Spill Response Plan for Guyana Operations, which covers all of its operations in Guyana. In particular, Section 9 of the Payara Report is publicly available on the Company Website as part of "Volume I of the July 2020 Payara EIA," beginning on page 9-1 (or page 889 of the linked PDF).[2] This section is an illustrative example of the information contained in the Reports that directly addresses the requests in the Proposal.

The information in the Payara Report is substantially comparable to the other Reports in terms of addressing the Proposal. The table below illustrates in detail how the Payara Report compares favorably with the guidelines of the Proposal. Since the Payara Report is substantially comparable to the other Reports, this shows that the Reports collectively compare favorably with the guidelines of the Proposal.

Proposal Language	Current Implementation in Payara Report	Pages of the Payara Report
Public Report.		
"*Shareholders request that the Company issue a report…*"	The Company has issued the Payara Environmental Impact Assessment, which is publicly available on the Guyana EPA's website and the Company Website.	N/A
Economic Impact. These sections of the Payara Report describe the potential impact on socioeconomic conditions, employment and livelihood, marine use, transportation, waste management infrastructure, use of land and ecosystem services, all of which are potential economic effects of a worst-case oil spill scenario.		
"*…evaluating the economic [impact]…*"	Section 9.15.- Socioeconomic Conditions/ Employment and Livelihoods: describes the potential result of a marine oil spill, a coastal oil spill and a collision between a project vessel and a non-project vessel on the socioeconomic conditions and employment and livelihood of individuals in Guyana. The report specifies that oil spills could result in decreased fishery and/or coastal agricultural yields and could potentially impact the fishery and agriculture sectors that currently account for a large part of Guyana's gross domestic product. Section 9.15. of the Payara Report also includes an assessment of the economic impact of different types of hypothetical spills (including worst-case scenarios for each of them).	9-170 to 9-177

[2] https://corporate.exxonmobil.com/-/media/global/files/locations/guyana-operations/eepgl-payara-eia-volume-i_eis-eia_july-2020_rev-4.pdf?la=en&hash=C524E9BD1074B674430228DA39F621A3F1B90375.

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
	Section 9.17.- Marine Use and Transportation: describes the potential for measurable impacts on marine use and transportation from oil spills. This section includes the potential impact to fishing as a commercial and subsistence activity and aquatic transportation as the only method of transportation available for part of Guyana's population.		9-183 to 9-186
	Section 9.19.- Waste Management and Infrastructure Capacity: evaluates how an oil spill (including a worst-case scenario) would impact waste management infrastructure. This section describes that a worst-case scenario would have a potential impact on marine biota, marine geology and sediments and marine water, but would not be expected to result in a material increase in waste generation. The report includes the Company's plan to manage the potential waste in case of an oil spill.		9-190 to 9-193
	Section 9.21.- Land Use: in case there is an unplanned marine and/or coastal spill, it describes that the only scenario where an oil spill would affect land use is if it affects a portion of the shoreline being used for agriculture purposes or where it could indirectly result in adverse impacts on land drainage.		9-197 to 9-200
	Section 9.22.- Ecosystem Services: discusses the impact of an oil spill on the ecosystem services. The report describes the potential impact of an oil spill on fisheries and agriculture (which are still among the top contributors to Guyana's GDP), on aquatic transportation systems and trade and on recreation, leisure and tourism, among others.		9-201 to 9-211
Human Impact. These sections of the Payara Report describe the potential impact on healthcare infrastructure, on cultural heritage, on indigenous peoples and on community health and well-being, including the potential harm to public health, as requested in the supporting statement of the Proposal. All these potential impacts are regarded as human impact of a worst-case oil spill scenario.			
"*…human [impact]…*"	Generally	Section 9.18.- Social Infrastructure and Services: reports that a potential oil spill would result in a burdening of healthcare infrastructure if medical service is required, but the burden would not be expected to overwhelm the existing capacity of Georgetown.	9-186 to 9-189

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
		Section 9.20.- Cultural Heritage: reports the potential loss of cultural and underwater cultural heritage as a result of unplanned events. The report adds that there are several archaeological sites along the Guyana coast and that a potential oil spill (including a worst-case scenario) would marginally impact the coastal cultural heritage.	9-194 to 9-196
		Section 9.23.- Indigenous Peoples: reports the potential impact of an oil spill scenario on indigenous peoples. Since these communities rely on the coastal habitats for subsistence and livelihoods, a potential oil spill has the potential of highly impacting coastal indigenous communities, if unmitigated.	9-211 to 9-213
	To Public Health	Section 9.16.- Community Health and Wellbeing: describes the potential impacts of these various scenarios, including different types of oil spills, on community health and well-being. The potential of a high impact on the health of affected coastal communities, as described in the report, is due to (i) their dependence on the coastal environment for subsistence and income and the use of rivers for transportation and daily household activities, such as washing and bathing, (ii) the high rate of poverty and (iii) the current health challenges faced by the coastal population in Guyana.	9-177 to 9-183
Environmental Impact. These sections of the Payara Report describe the potential environmental impact of a worst-case oil spill scenario, including the potential harm to marine ecosystems, as requested in the supporting statement of the Proposal.			
"*…and environmental impacts…*"	Generally	Section 9.2.- Air Quality and Climate: evaluates the potential impact to air quality or climate of an oil spill. The report considers that the potential for potentially harmful concentrations of air contaminants reaching the Guyana	9-104 to 9-107

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
		coastline to be very low, even for large spills. On the potential climate impact, the report adds that there is a risk of a very small increase in greenhouse gas emissions.	
		Section 9.5. - Protected Areas and Special Section Status Species: describes the potential risks of unplanned events on marine mammals, riverine mammals and marine turtles.	9-113 to 9-123
		Section 9.6.- Coastal Habitats: describes the potential risks of unplanned events on coastal habitats, including mangroves and vegetated low banks.	9-123 to 9-127
		Section 9.7.- Coastal Wildlife: describes the potential risks of unplanned events on coastal wildlife such as coastal birds and fish.	9-127 to 9-131
		Section 9.8.- Seabirds: describes the potential risks of unplanned events on seabirds.	9-131 to 9-138
		Section 9.10.- Riverine Mammals: describes the potential risks of unplanned events on riverine mammals.	9-144 to 9-148
	To Marine Ecosystems	Section 9.3.- Marine Geology and Sediments: describes the potential risks of unplanned events on marine water sediments and seafloor.	9-107 to 9-109
		Section 9.4.- Marine Water Quality: describes the potential risks of unplanned events on marine water quality.	9-109 to 9-113
		Section 9.9.- Marine Mammals: describes the potential risks of unplanned events on marine mammals.	9-138 to 9-143

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
		Section 9.11.- Marine Turtles: describes the potential risks of unplanned events on marine turtles.	9-148 to 9-153
		Section 9.12.- Marine Fish: describes the potential risks of unplanned events on marine fish.	9-153 to 9-159
		Section 9.13.- Marine Benthos: describes the potential risks of unplanned events on marine benthos and benthic organisms.	9-160 to 9-163
		Section 9.14.- Ecological Balance and Ecosystems: describes the potential risks of unplanned events on the ecological balance and ecosystems.	9-163 to 9-170
Worst-Case Scenarios. The supporting statement of the Proposal notes that a "worst-case" analysis should use adverse assumptions such as extended duration and uncontrolled release, severe weather conditions and increased flows. As described below, all of these considerations are addressed in the Payara Report.			
"…of a worst-case oil spill from its operations offshore of Guyana."	Generally	Section 9.1. The Payara Report defines a worst-case oil spill as a "worst-case discharge scenario" for a Marine Oil Spill ("**WCD**"). The report also includes a wide variety of other potential oil spill scenarios such as coastal spills and spill resulting from collisions. All the potential scenarios, including a WCD, are included in Section 9.1. of the Payara Report.	9-1 to 9-103
		Section 9.24.- Transboundary Impacts: describes potential transboundary impacts to the broader Caribbean region	9-214 to 9-224
	Extended Duration	Section 9.1. The Scenario Maps in this section provide extensive modeling of discharges lasting 10, 30, 45 and 54 days under a variety of circumstances	9-14 to 9-80
	Uncontrolled Release	Section 9.1. The Scenario Maps in this section provide numerous models of unmitigated WCD scenarios under a variety of circumstances, which assume	9-14 to 9-80

Proposal Language	Current Implementation in Payara Report		Pages of the Payara Report
		that no mitigating efforts or flow restrictions are implemented to control the release.	
	Severe Weather	Sections 9.1.2., 9.1.3 and 9.1.4. These sections describe how weather and natural conditions can impact the behavior of an oil spill. The Payara Report also includes seasonal differences between winter and summer.	9-11 to 9-16
	Flow Rate	Section 9.1.1.9. This section mentions that the WCD values represent an open well condition in which no flow restriction or well control technologies are in operation.	9-6 to 9-11
Cleanup Response Commitments.			
"…and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies."	The Company's cleanup response commitments are detailed extensively in its Oil Spill Response Plan for Guyana Operations, which is part of Volume III of the Payara Report, with the most recent version available on the Company Website. The cleanup response commitment is described in Section 7 of Volume III of the Payara Report.		Oil Spill Response Plan for Guyana Operations.

As illustrated in detail, the Reports, as exemplified by the Payara Report (which is substantially comparable to the other Reports), meet the essential objective of the Proposal, which is to evaluate and issue a report on the economic, human and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. Because the extensive evaluations contained in the Reports compare favorably with, and thus substantially implement, the guidelines of the Proposal, the Company believes that the Proposal may be omitted from the Company's 2023 Proxy Materials pursuant to Rule 14a-8(i)(10).

CONCLUSION

For the reasons set forth above, the Company believes that the Proposal may be excluded from the Company's 2023 Proxy Materials pursuant to Rule 14a-8(i)(10). The Company respectfully requests the Staff's concurrence with its decision to exclude the Proposal from its 2023 Proxy Materials and further requests confirmation that the Staff will not recommend enforcement action to the SEC if it so excludes the Proposal.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this request. Please do not hesitate to call me at (212) 450-4539 or to contact James E. Parsons, the Company's Executive Counsel, at james.e.parsons@exxonmobil.com or (972) 940-6211, if we may be of any further assistance in this matter.

Respectfully yours,

Louis Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation

Mary Minette, Mercy Investment Services, Inc.

Exhibit B

Sanford Lewis & Associates

PO Box 231
Amherst, MA 01004-0231
413 549-7333
sanfordlewis@strategiccounsel.net

February 13, 2023

Via electronic mail

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Exxon Mobil Corporation Regarding Offshore Oil Drilling in Guyana by Mercy Investment Services, Inc.

Ladies and Gentlemen:

Mercy Investment Services, Inc. has submitted a shareholder proposal (the "Proposal") to Exxon Mobil Corporation (the "Company"). We have been asked by the Proponent to respond to the letter dated January 12, 2023 ("Company Letter") sent to the Securities and Exchange Commission by Louis Goldberg of Davis Polk & Wardwell LLP. In that letter, the Company contends that the Proposal may be excluded from the Company's 2023 proxy statement.

We have redacted personal information consistent with the Staff's guidance. A copy of this letter is being emailed concurrently to Louis Goldberg at louis.goldberg@davispolk.com.

SUMMARY

The Proposal requests that the Company issue a report evaluating the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies. The supporting statement specifies that a "worst-case" should use adverse assumptions such as an extended duration of an uncontrolled release similar to the bp spill, severe weather conditions, increased flow including risks from operating beyond the production thresholds in the EIA, and potential harm to marine ecosystems and public health.

Rule 14a-8(i)(10) Argument

The Company Letter asserts that the Company has substantially implemented the Proposal and therefore it may be omitted pursuant to Rule 14a-8(i)(10). The Company claims its existing impact assessments concerning its development projects in Guyana "directly address the potential economic, human and environmental impacts of what is termed a 'worst-case discharge scenario' from its operations offshore of Guyana."

However, the Company's reporting, including the assessment of its "worst-case discharge scenario" does not comport with the request of the Proposal to assess a worst-case oil spill as described in the Proposal. The disclosures in question, which were contemplated by the Proponent in drafting the Proposal, do not account for adverse assumptions requested by the guidelines of the Proposal including extended duration of a discharge similar to the bp oil spill, increased frequency of severe weather, and the elevated spill risk associated with known exceedance of peak sustained safety thresholds. Nor do the Company's disclosures evaluate the human health impacts of such a worst case spill, disclose the Company's cleanup response commitments given the potential for severe impact on Caribbean economies, or disclose the economic impact such a worst-case spill may have on surrounding Caribbean countries. Therefore, the Company has not substantially implemented the Proposal.

Inclusion of Proposal Graphic

Although not raised as part of the instant no action request, we also write concerning the Company's prior notice to the Proponent that the Company intends, in the event that the Proposal appears on the proxy, to exclude a graphic that is integral to the submitted Proposal. The Company publishes graphics in its proxy statement and provides no rationale consistent with Staff guidance for excluding the graphics from the Proposal. Therefore, we urge the Staff to clarify to the Company that it must include the graphic in the proxy statement.

PROPOSAL

The resolved clause and supporting statement of the Proposal are set forth below:

> RESOLVED: Shareholders request that the Company issue a report evaluating the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana. The report should be prepared at reasonable expense, omit proprietary or privileged information, and clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies.
>
> Supporting Statement: A "worst-case" should use adverse assumptions such as an extended duration of an uncontrolled release similar to the BP spill, severe weather conditions, increased flow including risks from operating beyond the production thresholds in the EIA, and potential harm to marine ecosystems and public health.

The full proposal is appended to this letter.

ANALYSIS

I. THE PROPOSAL IS NOT SUBSTANTIALLY IMPLEMENTED.

A. The Company's existing disclosures do not fulfill the essential objective or guidelines of the Proposal

The Company argues that the Proposal may be excluded from the 2023 Proxy Materials as substantially implemented pursuant to Rule 14a-8(i)(10). Specifically, the Company claims its existing impact assessments concerning its development projects in Guyana "directly address the potential economic, human and environmental impacts of what is termed a 'worst-case discharge scenario' from its operations offshore of Guyana."[1]

In order for the Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), it must show that its activities meet the guidelines and essential purpose of the Proposal. The Staff has noted that a determination that a company has substantially implemented a proposal depends upon whether a company's particular policies, practices, and procedures compare favorably with the guidelines of the proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a- 8(i)(10) requires a company's actions to have satisfactorily addressed both the proposal's guidelines and its essential objective. *See*, e.g., *Exelon Corp.* (Feb. 26, 2010). Where a company can demonstrate that it has taken action that meets most of the guidelines of a proposal and the proposal's essential purpose, the Staff has concurred that the proposal has been "substantially implemented." In the current instance, the Company has substantially fulfilled neither the guidelines nor the essential purpose of the Proposal.

Here, the Proposal's guidelines are that the Company report to shareholders an evaluation of the economic, human, and environmental impacts of a worst-case oil spill from its operations offshore of Guyana, including a clarification of the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies. The guidelines also specify that a worst-case spill involves a duration of oil release consistent with the bp Macondo release, and an assessment of the impact of a worst-case spill on human health and consider the added risks (probability and impact) associated with operations that exceed the safety conditions provided in the Company's prior disclosed Environmental Impact Assessment. As will be discussed below, the Company has met none of these guidelines.

The essential objective of the Proposal is to obtain an assessment of such worst-case conditions such that investors can assess the financial, reputational, and environmental risks of a spill of this magnitude. This is made clear in the whereas clauses of the Proposal, which note that the Company's responsibility and potential liability in event of a spill are of concern to investors. As will be discussed further below, the Company's existing disclosures fulfill neither the essential purpose nor guidelines of the Proposal. Thus, the Proposal is not substantially implemented by the Company.

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[1] Company Letter, p. 2.

The Proposal's Guideline	The Company's action	Assessing against the guideline
Evaluate impacts of a worst-case oil spill involving adverse assumptions such as an extended duration of an uncontrolled release and severe weather conditions	The Company evaluates a worst-case discharge scenario (WCD) for a single well	The WCD does not involve **adverse assumptions of worst-case spill defined by proposal:** - Extended duration of well release (~87 days) - Severe weather conditions (i.e., hurricanes) beyond historical weather data - Resulting further oil dispersion - Potential multi-well event
Evaluate economic impacts to Caribbean economies of worst-case spill	Minimizes the risk to Guyana's employment, ecosystem services, transportation, etc as "minor" because a spill is "unlikely".	Does not evaluate impact on Guyana against such a worst-case spill. Does not evaluate the economic impact of such a worst-case spill to surrounding countries
Evaluate economic and human health impacts of a worst-case spill	Describes WCD risk to healthcare infrastructure, cultural heritage, indigenous peoples and community health and well-being as "minor" because a spill is "unlikely"	Does not assess the human health impact against such a worst-case spill
Evaluate environmental impacts of a worst-case spill	Describes WCD impact on marine ecosystems and environment from a worst-case discharge and treats them as "minor" because a spill is "unlikely"	Does not assess environmental impact of such a worst-case spill
Assess risks from operating beyond the production thresholds…	The Company's environmental impact assessment describes safety thresholds	Current operations exceed safety thresholds and may significantly increase the risk of a spill. No assessment is provided.
Clarify extent of cleanup response commitments given potential for severe impact on Caribbean	The Company cites its oil spill response plan	Does not provide expected disclosures: – Estimate cost to clean up a worst-case spill (cost owed to Guyana *and* surrounding nations) - Disclose how clean-up will be funded

B. The Company's "worst-case" discharge scenario disclosures do not constitute an assessment of a "worst-case spill" consistent with the guidelines of the Proposal

The Company contends that the assessment requested by the Proposal is fulfilled by the Company's analysis of a "worst-case discharge scenario" (WCD). However, there is a massive difference between an assessment of a "worst-case spill" utilizing the adverse assumptions that the Proposal requests, and the Company's "worst-case discharge scenario". Therefore, the Company's disclosures are not consistent with the guidelines of the Proposal.

The worst-case discharge that the Company references is something of a misnomer. This is a discharge level fixed by regulation that is principally designed to allow oil spill emergency planning. It is a discharge that would occur over a limited number of days and is not fit for the purpose of identifying the worst human, economic or environmental impacts that can happen from the current operations.

> "For an exploratory drilling operation… the worst-case discharge scenario, WCD, is 'the daily volume possible from an uncontrolled blowout' and a description of how responders will address the '…spill volume upon arrival at the scene and then support operations for a blowout lasting 30 days.'"[2]

The Company notes that the "main purpose of a WCD calculation is to support oil spill response planning. The duration of the WCD release is typically 30 days unless shutting in the well with a capping stack or other technology is expected to occur earlier."[3]

For the purpose of its Payara Environmental Impact Assessment ("Payara Report") concerning the subject Guyana operations, the Company states it hired a third-party specialist which incorporated information for the six reservoirs to be developed as part of the Payara Project into its WCD simulation program and calculated six reservoir-specific WCDs ranging from 25,151 to 202,192 barrels of oil per day (BOPD). The Company selected two WCDs to model a potential Project well-control scenario with loss of containment: 20,000 barrels of oil per day and 202,192 barrels of oil per day. The Company notes in its report that its standard scenario for a loss-of-well- control event is 20,000 BOPD. The Company states since this was "very close" to the lowest of the calculated WCD rates (and therefore would be expected to produce similar modeling results), this scenario was modeled as the "Most Credible WCD." The highest of the calculated WCD rates, 202,192 BOPD, was modeled as the "Maximum WCD."[4]

In drafting the Proposal, the Proponent was aware of the impact assessments associated with the "maximum worst-case discharge scenario" produced by the Company as well as its limitations, and even included the spill map from the Company's Maximum WCD scenario in

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[2] Final Action Memorandum- Incident Specific Preparedness Review (ISPR) for Deepwater Horizon Oil Spill, R.J. Papp Jr, Commandant, United States Coast Guard, March 18, 2011, p. 36; *see also,* 30 CFR § 254.47; *see also,* 30 CFR § 254.26

[3] Payara EIA Vol. I, p. EIS-29

[4] Payara EIA Vol. I, p. EIS-29

the Proposal. However, as requested by the Proposal, the existing impact assessment fails to address the worst-case spill conditions and impacts requested by the guidelines of the Proposal.

Distinct from the Company's "worst-case discharge scenario," the Proposal requests an analysis of the impacts of a "worst-case *spill*," above and beyond the conditions implied by the limited scenario that the Company published. The Proposal indeed requests that the "worst-case spill" assessment should use adverse assumptions that are not in the company's assessment, particularly an extended duration of an uncontrolled release comparable to bp's 87 days of release and severe weather conditions, which would go beyond the historical data utilized by the Company.

An extended duration over a longer period than the 30 days in the WCD model by the Company could cause a higher volume of oil to be discharged and to be dispersed over a wider area than the Company's existing disclosures. The Proposal specifically requests that the assessment include a longer release consistent with the bp oil spill that discharged oil from the well for 87 days.[5] As will be discussed further below, severe weather conditions, such as hurricanes, can cause more rapid surface currents which can spread oil further than modeled in a WCD. The Company utilized "historical" weather conditions in its environmental impact assessment, but future weather conditions in light of climate change are likely to be more severe.

The purpose of the Company's WCD is to conduct rudimentary emergency response planning so that the Company can know in advance how to prioritize the mobilization of emergency response resources (manpower and equipment) to those areas most sensitive to a spill. The BP Macondo spill serves as an example of the distinction. The bp Macondo spill is the largest oil spill in the history of marine drilling operations. The estimated flow rate of the incident was almost 200,000 barrels per day *less* than the WCD reflected in bp's oil spill response plan.[6] Even considering the overcompensation of barrels per day in the WCD , the spill was catastrophic due to the fact that the flow rate from the well *still far exceeded* the capabilities of not only the oil spill removal organizations that bp had under contract, but also the capabilities of the additional national and international spill containment and recovery resources that were mobilized as well.[7] Even though the response plan was in compliance with government standards for response capability to address a WCD, real-time conditions differed from those modeled, and slowed the well capping and spill response and thereby increased the consequences.[8] The bp

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[5] https://www.dco.uscg.mil/OCSNCOE/Accidents-Investigations/DWH-Macondo/#:~:text=The%20casualty%20resulted%20in%20the,all%20along%20the%20Gulf%20Coast

[6] Final Action Memorandum- Incident Specific Preparedness Review (ISPR) for Deepwater Horizon Oil Spill, R.J. Papp Jr, Commandant, United States Coast Guard, March 18, 2011, p. 35;

The BP plan identified three different worst-case scenarios that ranged from 28,033 to 250,000 barrels of oil discharge/day, *See,* https://www.govinfo.gov/content/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf; The actual rate of the spill is estimated to be ~50,000–70,000 barrels/day, *See,* https://www.pnas.org/doi/10.1073/pnas.1112139108.

[7] Final Action Memorandum- Incident Specific Preparedness Review (ISPR) for Deepwater Horizon Oil Spill, R.J. Papp Jr, Commandant, United States Coast Guard, March 18, 2011, p. 35

[8] Final Action Memorandum- Incident Specific Preparedness Review (ISPR) for Deepwater Horizon Oil Spill, R.J. Papp Jr, Commandant, United States Coast Guard, March 18, 2011, p. 12

spill shows that even with WCD planning, external factors that WCDs fail to consider can impact spill conditions and response. That is why the Proposal requests that the Company go much further to evaluate particular adverse assumptions, which may lead to a worst-case spill scenario.

The Company's WCD also fails to account for heightened spill risks resulting from the Company operating its drilling operations above safety design thresholds.

We note in addition that not all Company Environmental Impact Assessments even include the maximum WCD that is included in the Payara assessment. Misleadingly, the Company notes in its Letter that "the information in the Payara Report is substantially comparable to the other Reports in terms of addressing the Proposal" and that "in each case, a Report includes an extensive evaluation on the potential economic, human and environmental impact of a worst-case discharge with respect to the project."[9] However, in our review of the related documents, we could not find the Company's own limited maximum worst-case discharge scenario in the Company's Environmental Impact Assessment for its Liza Phase I and Liza Phase II development projects.[10]

C. Extended Duration of an Uncontrolled Well Release

The supporting statement of the Proposal makes it clear that a "worst-case" should use adverse assumptions such as an extended duration of an uncontrolled well release similar to the bp Macondo spill. The Company's Letter contends that the WCD "tak[es] into account 'adverse assumptions' as requested by the Proposal[11]," such as an extended duration release. However, the WCD evaluated is only an uncontrolled well release lasting 30 days, and the Company's spill scenarios do not account for the potential of a longer term uncontrolled well release. When the Company refers in its Letter to a 54-day discharge, which is identified on the map included in the Proposal, the actual well release modeled only lasts for 30 days. The 54 days includes 24 days after a hypothetical well cap to show how released oil could travel.[12] To compare this time frame

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[9] Company Letter, p. 2-3.

[10] Liza I and Liza II EIA's fail to discuss "worst case discharge." In the Payara EIA ("Payara Report"), there are two worst case discharge scenarios considered, a "Most Credible WCD" and a "Maximum WCD." The "Most Credible WCD" in the Payara Report is a 20,000 barrel per day release, whereas the "Maximum WCD" is a 202,192 barrel per day release. Scenario 9, the most severe scenario in Liza Phase I, is a 20,000-Barrel-per-Day Release of Crude Oil for 30 days, far less than the Maximum WCD of Payara (202,192 bpd). This same scenario of 20,000 barrels per day is the most severe scenario, Scenario 13, in Liza Phase II's EIA. Thus, neither of these EIA's have evaluated a maximum WCD as in Payara. The Company notes "the next revision of [its Oil Spill Response Plan] (planned 4Q19) will include complementary modeling of a Liza Phase II well control event with loss of containment in alignment with US Gulf of Mexico practice (similar to Payara). " EEPGL Oil Spill Response Plan, Rev. 5, August 2019, p. 139 The Company says the same concerning Liza Phase I. Yet, to our knowledge, this updated oil spill response plan has yet to be released by the Company. Thus, it cannot be said that the Company discloses even this minimal information in each of its reports, *information that in any event would not be compliant with the request of the Proposal for assessment of the described worst-case conditions*, or that the Payara Report is substantially comparable to the reports of other development projects in Guyana, further emphasizing that the Company's disclosures do not fulfill the request of the Proposal.

[11] Company Letter, p. 2.

[12] Payara EIA Volume I, p. 9-47.

with the BP Macondo spill, the BP Macondo well **released** oil over 87 days.

D. Impacts of severe weather on scale, duration and dispersion of a spill event

As seen in the bp Macondo experience, adverse weather conditions can delay a clean up response. Many operations cannot be conducted during hazardous weather conditions. Such delays, in turn, may delay the ability to cap a well and increase the duration and the range of dispersion of the spill. For example, the Coast Guard halted bp Macondo disaster response due to safety concerns posed by Tropical Storm Bonnie nearing the Gulf of Mexico.[13] Thus, because of severe weather concerns, spill *length* may be interconnected with a delayed clean up response.

The Company's own Oil Spill Response Plan notes "an oil spill response … can be constrained by physical conditions, prevailing weather and sea conditions, and safety considerations."[14] Yet, the Company's existing Reports fail to consider the worst-case spill that can occur if adverse conditions, especially more severe weather associated with climate change, may delay a clean up response or extend the duration of an uncontrolled well release as well as dispersion of the oil. Such a delay clearly distinguishes the report requested regarding a worst-case spill from the scenario planning by the company using WCD.[15]

The catastrophic impact of global climate change has become increasingly evident in recent years, particularly in Guyana and the surrounding Caribbean. Global warming is dramatically increasing the risk of extreme hurricanes in the Caribbean, with both frequency and intensity of hurricanes increasing since 1970.[16] One study estimates if critical climate targets are not reached, hurricane frequency in the Caribbean will continue to increase dramatically.[17] The results of the study show that in a 2°C warmer world, an event of similar size to Hurricane Maria, a deadly Category 5 storm, would be more than twice (2.3 times) as likely, occurring once every 43 years.

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[13] https://usa.oceana.org/blog/hurricane-season-and-offshore-drilling-are-reckless-combination/

[14] Payara Volume III OSRP, p.20

[15] On March 20, 2022, the US EPA issued a Proposed Rulemaking on Clean Water Act Hazardous Substance Worst Case Discharge Planning. https://www.epa.gov/hazardous-substance-spills-planning-regulations/proposed-rulemaking-clean-water-act-hazardous#rule-summary The proposed rule relates to onshore rather than offshore spills, but illustrates the concern regarding the differences between current WCD scenarios that rely on historical weather data compared with a worst-case **spill** as climate change increases the severity of anticipated weather conditions. https://www.federalregister.gov/documents/2022/03/28/2022-05505/clean-water-act-hazardous-substance-worst-case-discharge-planning-regulations

The proposed rule would modify evaluations of a worst-case discharge "**to include the potential for increased incidence and severity of extreme weather events** due to climate change, as well as other climate change impacts." [emphasis added] This demonstrates that current WCD scenarios lack sufficient assumptions regarding adverse weather conditions that may constrain spill response and increase consequences such as the area of the spill, with the likelihood that "worst case spills" can be more severe than modeled WCDs. Current EPA regulations state "When planning for the amount of resources and equipment necessary to respond to the worst case discharge planning volume, adverse weather conditions must be taken into consideration" 40 CFR Appendix D to Part 112. The Proposed rule expands the definition of adverse weather conditions "to include the potential for increased incidence and severity of extreme weather events due to climate change, as well as other climate change impacts."

[16] https://www.carilec.org/the-impacts-of-climate-change-on-the-atlantic-hurricane-season/

[17] https://www.sciencedaily.com/releases/2020/08/200827130612.htm

Similarly, a 100-year storm affecting the Bahamas would be 4.5 times as likely under the 2°C Paris Agreement scenario compared to the present day.[18]

Hurricanes cause about 25% of offshore platform-related spills, thus an increased prevalence of storm activity could present greater risk of spill to the Company.[19] The Company's Payara Report notes that "the oil spill modeling conducted for the purpose of this EIA was based on **historical** environmental (wind, wave, and current) and hydrodynamic data."[20] However, given the potential increased frequency and intensity of hurricanes from climate change, the Company's assessment of a worst case spill should use not just historical data, but also contemporaneous and *predicted* data of weather events to assess potential spill impact and response.

To frame this potential impact in the timeline of the Company's Guyana operations, the Company's Payara Report notes that, for the project, it plans for "initial production by early 2023, with operations continuing for at least 20 years."[21] By just 2050, scientists estimate that intense hurricanes and typhoons could more than double in nearly all regions of the world because of climate change.[22] Researchers also found the wind speeds in these storms could increase by as much as 20%, as well as a tremendous increase in the frequency of category 4 and category 5 storms – by more than 200% in some regions.[23]

Thus, the Company's use of historical data does not account for the predicted frequency and intensity of severe weather from climate change. In fact, the Company justifies that "weather forecasts would provide advance notice of [extreme weather events] and would enable [the Company] to take appropriate operational precautions to reduce the chance of an oil spill under such conditions[24]." Given the projected increased frequency and intensity of hurricanes within the lifetime of the Company's Guyana operations, without the Company's use of predicted or current data, it cannot be said to have fulfilled the Proposal's request of using adverse assumptions of severe weather conditions.

The Company also uses historical *ocean current data* from 2005-2014 in its oil spill scenario mapping.[25] Increased hurricane frequency not only poses a greater risk of the duration of oil spills as discussed above, but also a potentially larger oil sweeping area due to faster currents.

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[18] https://www.sciencedaily.com/releases/2020/08/200827130612.htm

[19] Worst Case Discharge Analysis (Volume I), U.S. Department of the Interior Bureau of Safety and Environmental Enforcement (BSEE), p.11, https://www.bsee.gov/sites/bsee.gov/files/volume-i-wcd-discharge-analysis-report-13january2017.pdf

[20] Payara EIA Volume I, p. 9-13

[21] Payara EIA Volume I, p. EIS-13

[22] https://www.cnn.com/2022/04/27/weather/intense-tropical-cyclones-could-double-climate/index.html

[23] https://www.cnn.com/2022/04/27/weather/intense-tropical-cyclones-could-double-climate/index.html

[24] Payara EIA Volume I, p. 9-13

[25] "The time series data set defines three-dimensional currents at a 3-hour interval for the 10 years between 2005 and 2014. The data from the SAT-OCEAN current model were calibrated by current data measured at a location offshore Guyana (8.08°N, 56.95°W) during 2015." Payara EIA Volume I, p. EIS-30

Hurricanes bring intense wind speed, which causes ocean waves and surface currents to increase speed. This action may cause surface oil to spread faster, potentially devastating nearby coastlines. Hurricanes also cause faster under-surface currents, which can extend as far as 300 feet below the surface.[26] Thus, oil under the surface may also spread quickly through marine ecosystems, wreaking deadly havoc on marine life. For the same reasoning as outlined above, potential increased hurricane frequency and activity suggests the Company should be using contemporaneous and predicted data of ocean currents in spill modeling to adequately assess the impact of a spill.

Impacts of severe weather on oil and gas infrastructure

Hurricanes pose serious risk to oil and gas infrastructure, including refineries, oil-drilling and production platforms, and onshore storage terminals.[27]

Hurricane-induced damage to oil and gas infrastructure can be attributed to:

a) Excessive pipeline movement on the seabed due to loss of on-bottom stability under the extreme hydrodynamic loading during a storm.

b) Excessive pipeline movement due to the impact force from a mud slide.

c) Damage to the platform riser or the riser-to-pipeline tie-in due to excessive movement of the pipeline on the seabed.

d) Damage to the platform riser either due to an excessive platform movement during the storm or due to an inadequate design of the riser support clamps.

e) Damage from anchors and anchor lines of unattended drilling and construction vessels that drift off-site during the storm.[28]

Hurricane Ida, a devastating Category 4 hurricane impacting the Gulf of Mexico and Louisiana, triggered the most oil spills detected from space in the Gulf of Mexico, with the Coast Guard investigating nearly 350 reports of oil spills in and along the US Gulf Coast.[29] Hurricane Katrina triggered a series of spills that ultimately released about 10 million gallons into the Gulf, the same amount of oil as the 1989 Exxon Valdez disaster off Alaska.[30]

Although the oil and gas industry has recently been building offshore oil operations to withstand "100 year" severe weather events, including "up to" Category 5 storms.[31] In reality,

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[26] https://oceanservice.noaa.gov/facts/hurricanes-sea-life.html

[27] *See,* A.M. Cruz, E. Krausmann, *Damage to offshore oil and gas facilities following hurricanes Katrina and Rita: An overview*, Journal of Loss and Prevention in the Process Industries, 2008.

[28] J. S. Mand.ke, Ph.D., et. al, Evaluation Of Hurricane-Induced Damage To Offshore Pipelines, Southwest Research Institute, 1995, p. 1-3.

[29] https://www.nytimes.com/interactive/2021/09/26/climate/ida-oil-spills.html, see also https://www.theguardian.com/environment/2021/sep/06/hurricane-ida-oil-spills-gulf-coast

[30] https://www.nytimes.com/interactive/2021/09/26/climate/ida-oil-spills.html

[31] The National Ocean Industries Association asserts "offshore facilities built since 1988 are designed to withstand '100-year Storms.' a designation that includes everything **up to** Category 5 events" [emphasis

Category 5 is simply the most severe storm category and covers all storms with wind speeds greater than or equal to 157 mph. Therefore, there is a wide range of potential damage from Category 5 storms – for instance, even a storm such as Hurricane Dorian, which landed in the Bahamas with sustained winds of **185 mph and gusts up to 220 mph**, would be considered a Category 5.[32] A worryingly high number of platforms destroyed by Hurricanes Katrina and Rita were built less than 10 years ago, and followed the "100 year" criteria.[33] Several pipelines were also damaged during Hurricane Andrew in spite of their 100 year design criteria.[34]

In light of this and with evidence pointing towards more frequent and more intense hurricanes, there is concern among the industry and regulators that the 100-year criteria currently being utilized might not sufficiently protect offshore structures.[35] Therefore, as the effects of climate change continue to be realized, the worst-case spill should contemplate the possibility that offshore operations are not able to withstand the ***more extreme*** storms anticipated to result from climate change.

E. Worst case spill involves multiple well failures: Severe hurricanes could cause multiple oil spills across the Company's Guyana operations

The Company's Guyana operations consist of multiple development projects in a 6.6 million acre area called the Stabroek Block. The Company's website states:

> "ExxonMobil currently has four sanctioned projects offshore Guyana. Liza Phase 1 is producing approximately 130,000 barrels per day using the Liza Destiny floating production storage and offloading (FPSO) vessel. Liza Phase 2, which started production in February, is steadily ramping up to its capacity of 220,000 barrels per day using the Liza Unity FPSO. The third project, Payara, is expected to produce 220,000 barrels per day; construction on its production vessel, the Prosperity FPSO, is running approximately five months ahead of schedule with start-up likely before year-end 2023. The fourth project, Yellowtail, is expected to produce 250,000 barrels per day when the ONE GUYANA FPSO comes online in 2025."[36]

This brings the Company's potential daily oil production in the Stabroek Block to 820,000

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added].http://www.noia.org/wp-content/uploads/2013/03/326.pdf

[32] https://blogs.scientificamerican.com/eye-of-the-storm/hurricane-dorian-was-worthy-of-a-category-6-rating/

[33] *See,* A.M. Cruz, E. Krausmann, *Damage to offshore oil and gas facilities following hurricanes Katrina and Rita: An overview*, Journal of Loss and Prevention in the Process Industries, 2008, p. 625

[34] J. S. Mand.ke, Ph.D., et. al, Evaluation Of Hurricane-Induced Damage To Offshore Pipelines, Southwest Research Institute, 1995.

[35] *See,* A.M. Cruz, E. Krausmann, *Damage to offshore oil and gas facilities following hurricanes Katrina and Rita: An overview*, Journal of Loss and Prevention in the Process Industries, 2008, p. 625

[36] https://corporate.exxonmobil.com/news/newsroom/news-releases/2022/0426_exxonmobil-makes-three-new-discoveries-offshore-guyana-increases-stabroek-resource-estimate

barrels per day by 2025.[37]

Given the above discussed infrastructure damage caused by hurricanes and the proximity between the Stabroek Block's developments, a worst-case spill scenario, then, could include releases from multiple wells. With the Stabroek Block's combined daily production projected to be 820,000 bpd, such a scenario could cause a far greater amount of oil to be released into the Caribbean than the Company's limited single well release scenarios.

F. The Company has not substantially implemented disclosure of heightened risk from operating above peak production thresholds defined in the Company's existing impact assessments

The impact assessments cited in the Company Letter are built around safe production thresholds, and the Company has recently been reported to be exceeding the safe production threshold set forth in the Environmental Impact Assessment on at least one of its development projects in Guyana. Thus, the existing actions do not implement the Proposal's request that the requested assessment of a "worst-case spill" evaluate adverse assumptions including "risks from operating beyond the production thresholds in the EIA."

The Company's Liza Phase I development project includes the floating storage, production, and offloading (FSPO) vessel Liza Destiny. In the Liza Phase I Environmental Impact Assessment, the Company states the facility has "the potential to safely operate at sustained peaks of oil production up to approximately 120,000 bpd."However,[38] data produced by Guyana's Ministry of Natural Resources shows production for the Liza Destiny in September was at 150,000 barrels per day, clearly above this listed peak production threshold rate.[39]

Thus, assessment of the increased risks from operating beyond the reported thresholds in the EIA, including peak production threshold increasing the risk and magnitude of potential spills, is unaccounted for in the Company's existing impact assessments, and is therefore not implemented by the Company.

We note as well that the existing environmental impact assessment repeatedly characterizes the risk of a spill as "unlikely." This, in turn, minimizes the potential risks from a spill and further demonstrates that the existing impact assessments are inconsistent with the requested analysis of a worst-case spill. For example, the chart in the Company's Letter cites Section 9.9 of its Payara Impact Assessment, where the Company describes the potential risks of unplanned events on marine mammals. The consequence/severity rating of impact on marine mammals was considered "High" by the Company. Yet, the Company rationalized that the likelihood of a spill

[37] Since we note below that the Company is already operating overcapacity, the barrels per day could be even higher than that.

[38] The Liza Phase I EIA p. viii

[39] https://www.kaieteurnewsonline.com/2022/11/01/exxonmobil-ruthlessly-taking-advantage-of-slack-govt-abysmal-epa-by-violating-safe-production-limits-dr-adams/

was "unlikely" in order to lower that risk assessment to "moderate" for marine mammals.[40] In fact, the Company relies on its determination that a spill is "unlikely" in all assessment categories. The relative likelihood as well as magnitude of a potential spill may well be altered as the Company's operations exceed peak production thresholds described in its existing environmental impact assessments.

G. The Company has not substantially implemented the request for an evaluation of economic and public health impacts from a worst-case spill

The Company Letter highlights sections of its Payara Report, which, according to the Company, "describe[s] the potential impact on healthcare infrastructure, on cultural heritage, on indigenous peoples and on community health and well-being, including the potential harm to public health, as requested in the supporting statement of the Proposal."[41] The Company contends that this disclosure fulfills the Proposal's request to assess human impact of a worst-case oil spill scenario. However, as noted above, a worst-case oil spill for which we are requesting assessment would involve a release for a significantly longer duration with potentially much broader dispersion of oil than the Company has assessed and therefore the extent of human impact of the worst case described by the proposal is not assessed by the Company.

As is mentioned in the background of the Proposal, President of Esso Exploration and Guyana Limited, Alistair Routledge, has stated "'there is no limit" to what ExxonMobil would do in response to an oil spill. This raises questions for investors as to the extent of the Company's financial commitment, as well as how such a cleanup would be funded. Understanding the extent of the Company's responsibility and potential liability should therefore be of concern to investors.

H. The Company's existing disclosures do not discuss the estimated cost of a spill clean-up

The Proposal requests an evaluation of, among other things, the economic impact of a worst-case spill, and deliberately requests the report clarify the extent of the Company's cleanup response commitments given the potential for severe impact on Caribbean economies. The Company's letter states that its "cleanup response commitment is described in Section 7 of

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[40] The Company's logic is outlined below:

"In combination with a likelihood rating of Unlikely for a marine oil spill, the (pre-mitigation) risk to marine mammals from a marine oil spill is considered Moderate."

The Company again uses this "unlikely" determination to further diminish the risk to marine mammals from a mitigated oil spill to "minor."

"Effective implementation of the [Oil Spill Response Plan] limit the geographic extent of the oil spill, the duration over which the spill would be present on the water surface, and the number of individual marine mammals potentially impacted. As such, this would be expected to reduce the intensity of the impact of a mitigated oil spill on marine mammals to Medium…**In combination with a likelihood rating of Unlikely for a marine oil spill, the residual risk to marine mammals from a mitigated marine oil spill would be Minor."**

Payara EIA, p. 9-137 - 9-138

[41] Company Letter, p. 4

Volume III of the Payara Report."[42] Only reading the language of the Proposal most narrowly can the Company claim to have fulfilled this part of the Proposal. The Company cites its environmental permit which states that "[t]he Permit Holder **shall bear all costs of the restoration, rehabilitation and compensation required as a result of damage incurred due to an oil spill** or other emergency resulting from the execution of the Project[43]" and shall "be **liable for any material or serious environmental harm caused by their pollution of the environment** in accordance with section 39 (2) and (4) of the Environmental Protection Act, Cap.20:05, Laws of Guyana.[44]"

However, the focus of the Proposal and the scope of worst-case spill impacts on environment and economy is intended to lead to disclosure of information on the potential cost to clean up a severe spill, and the damage incurred as a result of that spill. This information would be of material interest to investors.

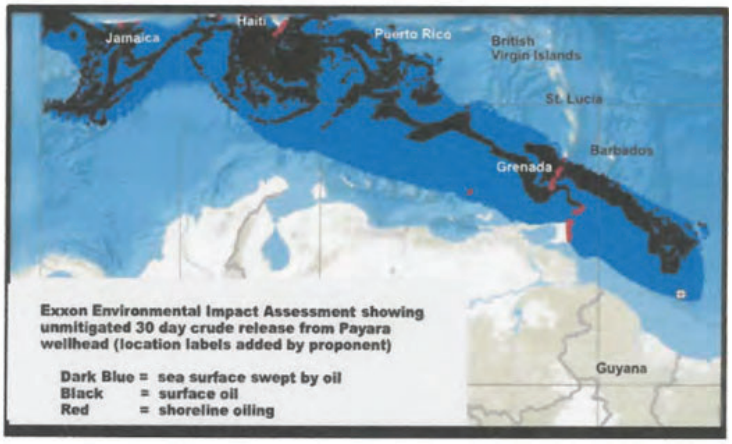
I. The Company's existing economic impact assessments do not cover economic impact of a worst-case spill to surrounding Caribbean nations

The Company contends its Payara Report "describe[s] the potential impact on socioeconomic conditions, employment and livelihood, marine use, transportation, waste management infrastructure, use of land and ecosystem services."[45] Notably, these disclosures focus exclusively on impact to Guyana's GDP and its residents.

However, the Proposal distinctly states that the risk of a spill also presents a potential for severe impact on *Caribbean economies.* The map included in the Proposal, reprinted below, depicts one of the Company's modeled WCD spill scenarios.

The scenario shows that a spill significantly less severe than the requested "worst-case spill" of longer duration than the one modeled by the company could already be expected to spread to Caribbean countries including Jamaica, Haiti, Puerto Rico, British Virgin Islands, St. Lucia, Grenada, and Barbados. The Company itself notes the Guiana Current – a strong, nearly year-round westerly flowing current along the coast of Guyana – increases the probability of an oil spill impacting the coastal zones of nearby countries to the north and west.[46] Yet, the Company has not disclosed the extent of the economic impact of a worst-case spill on these economies, nor the extent of the Company's cleanup response commitments within those regions.

[42] Company Letter, p. 8.
[43] Liza Phase I Environmental Permit, § 10.1, p. 21.
[44] Liza Phase I § 14.12, p. 37
[45] Company Letter, p. 3
[46] Payara EIA Volume I, p. EIS-30



Graphic based on the Company's WCD assessment,
based on limited duration oil spill and historical weather conditions

Many of these countries rely on fishing and ecotourism to support their economies. Statistics indicate that the tourism industry in the British Virgin Islands generates an estimated 45% of the national income.[47] A spill in this region could be catastrophic to the economy of the British Virgin Islands and surrounding nations. In CARICOM (Caribbean Community) countries, of which Guyana is a member, at least 64,000 persons are directly employed in small-scale fisheries and aquaculture and an estimated 180,000 people are involved in fish processing, retail, boat construction, net repair and other related activities.[48] To compare this data with a historic large-scale spill, after the BP Macondo spill in the Gulf of Mexico, shrimp landings decreased by 32% in Louisiana, 60% in Mississippi, 56% in Alabama and nearly 15% in Texas, while increasing by nearly 15% for the Florida west coast. Fish landings of the Menhaden species in Louisiana also decreased by 171 million pounds (17%).[49]A study by the U.S. Bureau of Ocean Energy Management estimated that within just the first 8 months of the spill, the disaster cost the Gulf's fishing industry $94.7 million to $1.6 billion and anywhere from 740 to 9,315 jobs.[50]

Beyond the Company's financial responsibility to Guyana to clean a worst-case spill, the Company has a financial responsibility to countries surrounding Guyana under international law.[51] Given this liability, the potential cost owed to surrounding countries to clean up a worst-

[47] https://www.nationmaster.com/country-info/profiles/British-Virgin-Islands/Economy

[48] https://www.fao.org/3/ax904e/ax904e.pdf

[49] https://sgp.fas.org/crs/misc/R41640.pdf

[50] https://www.nola.com/news/environment/article_462806af-c1e5-5712-9608-31b125c43c8c.html

[51] Under Guyana's Environmental Protection Act, each Environmental Permit issued by the Environmental Protection Agency must contain a condition that "the developer shall have an obligation to comply with any directions by the Agency where compliance with such directions are necessary for the implementation of any obligations of Guyana under any treaty or international law relating to environmental protection; and the developer shall have an obligation to restore and rehabilitate the environment."Guyana Environmental Protection Act, §13(1)(d)-(e), https://mlgrd.gov.gy/wp-content/uploads/2016/07/Guyana_Enivironmental_Protection_Act_1996.pdf , p. 21 In fact, the Company's Environmental Permit for Liza Phase I states

case spill should be of concern to investors.

Without information concerning how a true worst case spill could impact the Caribbean economies within the potential impact zone of its Guyana operations, the Company cannot be said to have substantially implemented the Proposal.

To summarize, the Company has provided no basis for a conclusion that it has substantially implemented the Proposal with its existing actions and therefore the no action request should be denied.

II. THE COMPANY MUST INCLUDE THE PROPOSAL'S GRAPHICS IN ITS PROXY STATEMENT.

On December 12, 2022, the Company notified the Proponent ("Graphics Letter"), that if the no action request is denied, it intends to exclude the Proposal's graphic from its proxy statement. (Graphics Letter is Appended). The Company stated it did "not plan to re-print the color graphic included in [our] submission." And that it has "a longstanding practice of using only words, with no pictures or graphics, in the portion of [its] proxy statement devoted to shareholder proposals and responses."

We believe this is inconsistent with the position of the Staff. Staff Legal Bulletin 14L, states "the Division is of the view that Rule 14a-8(d) does not preclude shareholders from using graphics to convey information about their proposals."[52] Staff Legal Bulletin 14L also notes that "Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics."[53]

Moreover, ExxonMobil has included its own graphics in its proxy statement, printed in color. Here are a couple of examples from the 2022 proxy statement:

> "the Permit Holder shall comply with any directions which the Agency gives from time to time, including but not limited to, those directions given in furtherance of the implementation of any international or other obligation under any treaty or International Law related to the environmental protection of Guyana and surrounding regions likely to be affected (including neighbouring South American Coast and Caribbean Sea)." Liza Phase I Environmental Permit, § 1.2, p. 2

The Company may, then, be liable under International Law to neighboring countries including the CARICOM nations. For example, Guyana has ratified the Escazú Agreement, a regional agreement on access to information, public participation and justice in environmental matters in Latin America and the Caribbean. Parties to the agreement agree to "guarantee the right of every person to live in a healthy environment and any other universally-recognized human right related to the present Agreement." Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Article IV § 1, https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf, p. 16.

[52] https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals#_ftnref15

[53] https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals#_ftnref15, *see also,* General Electric Co. avail February 23, 2017

The Company attempts to distinguish these other parts of the proxy statement that contain graphics to rationalize the noninclusion of the graphics in the proxy. However, consistent with the Staff Legal Bulletin, it is clear that in this instance the Company includes graphics of its own in the proxy statement and it therefore follows that the Company should include the graphic in the proponent's submission in its proxy statement, giving it similar prominence to its own graphics.

The Staff has stated exclusion of graphics/images is appropriate under Rule 14a-8(i)(3) where they:

- make the proposal materially false or misleading;
- render the proposal so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing it, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires;
- directly or indirectly impugn character, integrity or personal reputation, or directly or indirectly make charges concerning improper, illegal, or immoral conduct or association, without factual foundation; or
- are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.

The Company has made no claim that any of these factors apply to the proposal's graphic. The inclusion of our graphic in the Proposal is directly relevant to the subject matter of our Proposal and presents none of the above-stated issues. To add insult to injury, the Graphics Letter also prejudged the advocacy value of the graphic, taking the liberty of adding "**We also believe that the intent of your proposal is sufficiently clear to a reasonable investor without**

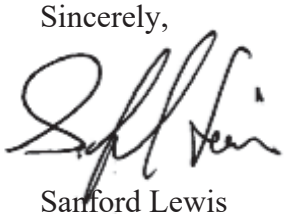
a graphic." We believe it is not appropriate for the Company to decide whether the Proponent's proposal is clear enough to investors without the addition of the graphic. In fact, it is the Proponent's opinion that the graphic provides dramatic and persuasive advocacy impact for shareholders, and that it should not be excluded.

Therefore, we request from the Staff a determination that the Company must include the graphic within the Proposal in its 2023 Proxy Statement, and that if the Company chooses to exclude the graphic it would be a violation of the proxy rules as it would involve omission of a materially important part of the Proposal as presented to the Company.

CONCLUSION

The Company's existing disclosures fail to fulfill the essential objective and guidelines of the Proposal and the Company has provided no basis for the conclusion that the Proposal is excludable under 14a-8(i)(10). As such, we respectfully request that the Staff inform the Company that it is denying the no action letter request, and further that the Company must, in the opinion of the Staff, include the graphic with the Proposal.

Sincerely,



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March 6, 2023

Via electronic mail

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Exxon Mobil Corporation Regarding Offshore Oil Drilling in Guyana by Mercy Investment Services, Inc.

Ladies and Gentlemen:

Mercy Investment Services, Inc. ("the Proponent") has submitted a shareholder proposal (the "Proposal") to Exxon Mobil Corporation (the "Company"). On January 12, 2023, the Company submitted a no action request ("Initial Request") to the Staff of the SEC and the Proponent responded on February 13, 2023 ("First Response"). We have been asked by the Proponent to respond to the letter dated February 24, 2023 ("Supplemental Letter") sent to the Securities and Exchange Commission by Louis Goldberg of Davis Polk & Wardwell LLP. A copy of this letter is being emailed concurrently to Louis Goldberg at louis.goldberg@davispolk.com.

The Supplemental Letter reiterates the claim that the Company's existing actions substantially implement the Proposal. Yet, as we demonstrated in the First Response, the Proposal is framed clearly around the failure of the Company's existing disclosures to address the operation's well-recognized worst-case spill vulnerabilities – including running existing operations **above safety thresholds** and **lack of consideration of a longer-term spill scenario on par with the bp Macondo spill** — and further, lack of disclosure of the substantial economic damage that such a worst-case spill could pose to the economy of the Caribbean region.

I. The Company's actions do not fulfill the essential purpose of the Proposal.

A. The background section of the Proposal makes its thrust and the shortcomings of the Company's "implementing" actions clear

In its Supplemental Letter, the Company contends[1] that though the Proponent "may disagree" with adverse assumptions and evaluations made in the Reports, "that does not mean that the information and analysis requested by the Proposal have not been provided." In order to draw this conclusion, the Company necessarily avoids the clear context and thrust of the Proposal as

[1] We gratefully acknowledge that the Company has conceded that it will include the graphics in the proxy in the event the proposal is published.

set forth in the background section. The Proposal was built around the specific shortcomings of the 'maximum worst-case discharge scenario' produced by the Company, and even included the spill map from the Company's Maximum WCD scenario in the Proposal. The background section spells out the shortcomings of these current company disclosures that do not provide an authentic assessment for investors of the impact of an authentic worst-case spill scenario.

A reasonable investor reading the full proposal would conclude that the Company's existing actions are not responsive to the concerns raised by the Proposal. The Proposal's background section is essentially an inventory of the reasons why the existing environmental impact assessments by the Company fail to assess an authentic worst-case spill. The background section includes a discussion of current exceedance of safety thresholds, the extended duration of the BP oil spill as reflective of a worst-case, as well as the significant economic stakes of Caribbean countries in the face of the Company's assumption that a large spill is unlikely. The background section also includes statements from prominent experts alleging that the Company is engaging in reckless disregard of certain risks.

In contrast, the Supplemental Letter attempts to claim that existing disclosures suffice to fulfill the essential purpose of the proposal, asserting that its existing disclosures "consider 'adverse assumptions' that compare favorably with the guidelines of the Proposal" such as "extended duration (e.g., maximum worst-case discharge scenario of 202,192 barrels per day for 30 days with no remediation efforts for up to 24 additional days)" [emphasis added]. In contrast, the Proposal references the duration of the BP Macondo oil spill which involved a discharge of 87 days. The duration thus does not compare favorably.

The areas of concern raised by the Proposal and Proponent are issues not being adequately addressed in current Company disclosures, and a vote on the Proposal would signify endorsement by the Company's investors of the need for a more fulsome assessment. The Proposal is thus intended to provide shareholders with an appropriate opportunity to seek disclosure of the financial and environmental risks associated with more severe conditions than the Company's current oil spill contingency planning disclosures that fall far short of assessing a true "worst case spill."

It should be noted that the concerns raised by the Proposal are **publicized and recognized worst-case risks associated with the operations** that go beyond current Company disclosures. According to a detailed 2021 article[2] in The Guardian regarding the Company's oil drilling operations in Guyana (quoted in the Proposal), a petroleum engineer reviewed more than 1,000 pages of Exxon submissions and government permits:

> Petroleum engineer Robert Bea said it was reminiscent of BP's original plans for the Macondo well, which stated, it is "unlikely that an accidental surface or subsurface oil spill would occur from the proposed activities." Asked if such contentions are "typical" in offshore drilling, he said: "absolutely

[2] https://www.theguardian.com/environment/2021/aug/17/exxon-oil-drilling-guyana-disaster-risk

not". Rather, he says, they reveal "ignorance of risk management fundamentals".

Bea worked for Shell Oil before becoming one of the world's premier safety and disaster investigators. He served as a principal investigator on the BP Deepwater Horizon disaster, the Piper Alpha offshore oil disaster that killed 167 men in the North Sea, the Exxon Valdez grounding and the crash of the Nasa Columbia space shuttle.

Bea … concluded that: "We could have a problem similar to what we had with BP before and after the Macondo disaster."

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If a blowout occurs in Guyana, Exxon says it would be contained within 21 to 30 days – an estimate Bea said is far too optimistic, unsubstantiated and improbable [emphasis added].

Additional excerpts of the Guardian article are attached as an appendix to this letter.

It is entirely appropriate for investors to seek an assessment of a more authentic worst-case spill scenario that reflects unaddressed concerns and time frames. The Supplemental Letter errs in asserting that shareholders must defer to the Company or regulators in determining the scope of an assessment of potential environmental and economic impact from the operations and to be dependent on what have been called overly optimistic and limited projections of a spill. Contrary to the Supplemental Letter, these *are* "the kinds of decisions and judgments on risks, scenarios and assumptions that can be made by shareholders." There is sufficient public information and clarity associated with the concerns and gaps raised by the Proposal.

B. Staff precedents demonstrate that the background section of a proposal can be determinative of its essential purpose

Staff precedent demonstrates that the background section of a proposal may be critical to identifying its essential purpose -- in determining what the Proponent identifies as Company shortcomings which necessitate the Proposal, and thus may define the Proposal's thrust. As an example, in *Chubb Limited* (March 26, 2022) the proposal requested that the company adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the IEA's Net Zero Emissions by 2050 Scenario. The Company asserted that it had substantially implemented the Proposal through its existing coal policy and Task Force on Climate-Related Financial Disclosures (TCFD) report. However, the essential purpose of the Proposal, with consideration of the background section, was to move beyond the limited restrictions already placed on fossil fuel development. For instance, the background section of the Proposal noted that, as an insurer, the Company is liable for increasing risks associated with climate change and yet

"simultaneously underwrites policies for the fossil fuel industry, whose emissions are

> widely believed to amplify devastating storms, wildfires, and heat waves. These practices are fundamentally incompatible.
>
> While Chubb restricts underwriting new coal fired power plants and underwriting and investing in companies that primarily operate in coal mining and coal power, investors are concerned that Chubb's efforts are not sufficiently aligned with global efforts to reduce emissions through, for example, the Paris Agreement. Further, the Company lags behind European peers, including AXA, Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re, and Zurich, that have committed to transitioning their underwriting portfolios to net-zero emissions by 2050."

Accordingly, reference to the background section helped to demonstrate that the proposal was not substantially implemented by Chubb's coal policies or TCFD Report that the company attempted to cite as implementation.

Similarly, in *Apple Inc.* (avail December 21, 2021), the company argued it had substantially implemented a proposal requesting the company's Board revise the company's Transparency Reports to provide clear explanations of the number and categories of app removals from the app store, in response to or in anticipation of government requests, that may reasonably be expected to limit freedom of expression or access to information. The company argued its Transparency Report substantially implemented this proposal, and the items listed in the supporting statement were "mere suggestions and are not requested or required by the proposal." The proponent argued, that "to discern the essential purpose of the proposal, it is helpful to look to the background section." The background section of the proposal highlighted a finding of the *New York Times* in 2021 that since 2017 roughly 55,000 active apps have disappeared from the company's Chinese App Store -- a figure that is larger by an order of magnitude than the number of app takedowns discussed in the transparency reports. This amplified the essential purpose of the proposal, and that the company's existing Transparency Report had scarce information. The Staff was unable to concur with the company's argument for exclusion.

Yet another example is in *CorVel Corporation* (June 5, 2019). The Proposal focused on asking the company to issue a public report detailing the potential risks associated with omitting "sexual orientation" and "gender identity" from its written equal employment opportunity (EEO) policy. However, the company attempted to assert that its EEO Policy had substantially implemented the essential objective of the proposal because it interpreted its existing policy as including those concerns even though the written EEO Policy did not expressly mention "sexual orientation" or "gender identity."[3] The argument for lack of substantial implementation was grounded in the background section of the proposal, noting that the purpose of the proposal could not be deflected by claiming an expansive interpretation of its EEO policy, since the thrust of the background section was how these are significant omissions that do not signal protection for employees or potential employees against discrimination, and in favor of inclusion, of LGBT

[3] The policy only prohibited discrimination on the basis of "race, color, creed, religion, age, sex, gender, genetic information, national origin, ancestry, citizenship status, physical or mental disability, military service, veteran status or any other classification protected by applicable federal, state, and local laws and ordinances."

people. The language of the supporting statement of the Proposal was very clear that its focus is not on changing the EEO policy, but rather assessing and disclosing to shareholders the risks associated with its current formulation.[4]

The proponent noted that therefore, the existence of the Company's existing policy that might be construed to address "sexual orientation" and "gender identity" was not substantially implemented "in absence of the ***express*** language of an EEO policy that provides the clearest cultural and legal signal to employees at all levels of a company as to whether LGBT people are protected against discrimination… in the face of the legal ambiguities…the lack of express mention of LGBT people may reasonably be interpreted by some as a cue that these forms of discrimination may be tolerated."[5]

It should be noted as well that the mere existence of voluminous company reports on a topic, which the company claims substantially implements a proposal that in some manner addresses the same topic, is not a legitimate determinant as to whether the proposal is substantially implemented. While it is true that the Company has published reports on oil spills and its operations as drawn upon in the proposal, including the graphic, the fact that the proposal is in the form of a request to go beyond that reporting provides prima facie evidence that in this instance the requested reporting is not substantially implemented. This is consistent with other prior proposals where extensive reporting existed on the general topic, but the reports were still not be considered to have substantially implemented a proposal seeking a report within the same issue area. For instance, in *Chesapeake Company* (April 13, 2010) the company asserted that its

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[4] The background of the proposal made the essential purpose clear:

> CorVel does not explicitly prohibit discrimination based on sexual orientation and gender identity or expression in its written EEO policy.
>
> CorVel's lack of a corporate-wide best practice EEO policy sends mixed signals to company employees and prospective employees and calls into question the extent to which LGBT (lesbian, gay, bisexual, or transgender) individuals are protected due to inconsistent state policies, the absence of a federal law, and conflicting perspectives of federal entities.
>
> ***
>
> Most companies have inclusive policies, including industry peers, such as, Aetna, Aon Plc, Brown & Brown, and Marsh & McLennan Companies. According to the Human Rights Campaign, 82% of the *Fortune 500*® companies had EEO policies that include sexual orientation and gender identity in 2017.
>
> Without an inclusive EEO policy, CorVel may be sacrificing competitive advantages relative to peers while simultaneously increasing company and shareholder exposure to reputational and financial risks.
>
> We recommend that the report evaluate risks including, but not limited to, negative effects on employee hiring and retention, and litigation risks from conflicting state and company anti-discrimination policies.

[5] *See also*, *J.P. Morgan Chase & Co.* (March 22, 2021) in which the essential purpose of a proposal seeking reporting on congruency of political contributions was found not to be substantially implemented in light of the background section of the proposal which highlighted specific examples of incongruency of company statements on climate change and diversity as against its known political contributions.

extensive web publications constituted substantial implementation of the proposal on natural gas extraction. The Staff concluded that despite a volume of writing by the company on hydraulic fracturing, the matter was not substantially implemented given the guidelines of the proposal.

Numerous other issuer attempts to exclude proposals under Rule 14a-8(i)(10) have failed where the company has provided public disclosure concerning some, but not all, of the elements of reporting requested. See, for instance, *Marathon Oil Corporation* (January 22, 2013); *Nike, Inc.* (July 5, 2012) (requesting reports on lobbying or political contributions and expenditures); *Southern Company* (March 16, 2011) (proposal requesting a report on the company's efforts, above and beyond current compliance, to reduce environmental and health hazards associated with coal combustion waste was not substantially implemented by existing report on coal combustion byproducts or other disclosures associated with the impacts of coal where reports did not provide the specific information requested in the proposal); *3M Company (March 2, 2005)* (proposal seeking actions relating to eleven principles on human and labor rights in China was not substantially implemented despite the fact that the company had its own set of comprehensive policies and guidelines on these issues); *ConocoPhillips* (January 31, 2011) (the proposal's objective that the company prepare a report on public safety, including "the Board's oversight of" a variety of related issues, was not substantially implemented where company had taken a significant number of steps to reduce the risk of accidents and reported to stockholders and the public, but only made passing reference to the Board's role).

II. <u>Supplemental Letter obfuscates critical issues raised by the Proposal.</u>

A. Conflating oil spill contingency planning with Proposal's worst-case spill scenario

The Company Supplemental Letter continues to attempt to conflate its existing disclosures built around oil spill contingency planning with the worst-case spill assessment requested by the proposal. For instance, the Company's latest letter notes:

> The Reports' definition of "worst-case" is also in compliance with international standards and follows the guidance established in the Guyana National Oil Spill Contingency Plan.

The Company describes the conditions that were considered in its existing disclosures. These are certainly useful in helping to develop an action plan for responding in the event of a spill, but are far less useful in providing needed insight into the extent of environmental and economic damage that could be posed in truly adverse, worst-case conditions in terms of anticipated flow, equipment failures, adverse weather conditions and duration of the spill event before it is halted. In oil spill contingency planning, oil spills modelled are generally smaller in magnitude and shorter in duration compared to a true worst-case scenario – hence the 30-day timeframe despite the much longer timeframe of a known event – the bp spill. The short timeframe is useful for assessing the capacities of the response resources committed and available to contain and clean up the spill.

This is consistent with the remarks of Robert Bea and Melinda Janki as quoted in The Guardian, and it is also consistent with observations in a report issued by the Pew Charitable Trusts, "Oil Spill Prevention and Response in the U.S. Arctic Ocean Unexamined Risks, Unacceptable Consequences."[6] The report noted that one area of improvement needed in planning for offshore oil operations is to require more realistic worst-case blowout scenarios:

> Worst-case discharge amounts—the maximum spill size that could occur from exploration or production operations—should be calculated on the basis of the highest possible flow rates for a well, based on all available data. Higher "default" flow rates should be established for operations in new regions such as the Arctic OCS—where previous offshore exploration has confirmed that blowouts could exceed (by several orders of magnitude) the state response planning standard of 5,500 barrels of oil per day—and based on well data from similar reservoirs located onshore. Worst-case discharge estimates should also factor in the time required to stop the blowout. **The Deepwater Horizon blowout continued for three months. Other blowouts have lasted longer, yet many oil spill contingency plans consider only a 15- or 30-day duration.** [emphasis added]

B. The Proposal and Proponent Response Letter do not include the Company's figure for design capacity, but rather the Company's calculated "peak" safety threshold, which is an entirely different figure

The Company contends the Proponent Response Letter's discussion of the Company operating beyond production thresholds "appears to be rooted in Proponent's misunderstanding of the engineering concept of 'exceeding design capacity.'" The Company also mentions a conference call on January 17, 2023, where "The Proponent seemed to understand the explanation and indicated that this particular concern was resolved."

The Proponent understands the definition of design capacity, which is why both the Proposal and Proponent Response Letter reference a figure that is not the project's "design capacity" but instead an entirely different figure: the Company's calculated "peak" safety threshold. As the Company explained to the Proponent, design capacity is a facility's production capacity compared to its investment basis, and exceeding that figure does not indicate that the facility is operating at an unsafe level. The Proposal's paraphrase from the Company's CEO concerning design capacity, which we believe the Company is referencing, serves as important context concerning the rapid development of the Company's operations, rather than as a figure for concern.[7]

After referring to that CEO statement, however, the Proposal goes on to describe exceedance of a different threshold, the safety threshold:

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[6] https://www.pewtrusts.org/~/media/legacy/oceans_north_legacy/page_attachments/oil-spill-prevention.pdf

[7] The Proposal states: "After discovering oil in 2015, development proceeded rapidly. Production began in 2019, with capacity expected to exceed one million bpd by 2030. CEO Darren Woods admitted ExxonMobil is exceeding design capacity for production in two offshore projects in Guyana."

> "Production in one project has reached 150,000 bpd, clearly above its listed **peak production safety threshold of 120,000 bpd**, raising concerns among observers."

The Supporting Statement refers back to this figure, albeit with a shortened terminology, since there is no standard terminology for this figure in the Company's EIA:

> "A "worst-case" should use adverse assumptions such as… increased flow including risks from operating beyond the **production thresholds** in the EIA."

The Proponent Response Letter discusses the same safety threshold figure:

> "In the Liza Phase I Environmental Impact Assessment, the Company states the facility has 'the **potential to safely operate at sustained peaks of oil production up to approximately 120,000 bpd.'** However, data produced by Guyana's Ministry of Natural Resources shows production for the Liza Destiny in September was at 150,000 barrels per day, clearly above this listed peak **production threshold** rate." [Emphasis added]

As listed in their Environmental Impact Assessment, the Company's design capacity for Liza Destiny is **100,000 bpd**, an entirely different figure than the peak safety figure the Proposal and Proponent Response Letter discuss.[8] At no point in the Proposal or Proponent Response Letter do we provide the figures for the Company's design capacity. As the Company explained, exceeding design capacity does not necessarily indicate operations are at an unsafe level. Thus, exceeding design capacity would not be an "adverse assumption" useful in assessing impact of a worst-case spill.

Production Thresholds

Design Capacity, Safety Thresholds
and Recent Operations at Liza I

Reported recent operations 150,000 bbl/day

↑

Safety threshold 120,000 bbl/day

↑

Design capacity 100,000 bbl/day

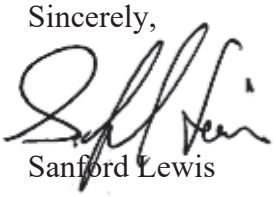
[8] Liza Phase I EIA, p. viii

Therefore, it is clear that the Company is attempting to obfuscate rather than clarify the information flagged by the Proposal, and to deflect from its known exceedances of "safety thresholds," which clearly **do** implicate an adverse assumption — information relevant to assessing the scale and probability of worst-case scenarios.

CONCLUSION

The Company's contention that the Proponent Response Letter has reframed the essential objective of the Proposal is misguided, as the Proposal is clear in its guidelines and the Proponent Response Letter directly addresses the Company's failure to substantially implement those guidelines. The Company's existing disclosures fail to fulfill the essential objective and guidelines of the Proposal and the Company has provided no basis for the conclusion that the Proposal is excludable under 14a-8(i)(10). As such, we respectfully request that the Staff inform the Company that it is denying the no action letter request.

Sincerely,



Sanford Lewis

Kendall McPherson

The Guardian

Exxon's oil drilling gamble off Guyana coast 'poses major environmental risk'

Experts warn of potential for disaster as Exxon pursues 9bn barrels in sensitive marine ecosystem

Antonia Juhasz, "Exxon's oil drilling gamble off Guyana coast 'poses major environmental risk':Experts warn of potential for disaster as Exxon pursues 9bn barrels in sensitive marine ecosystem." The Guardian, August 17, 2021. [EXCERPTS]

ExxonMobil's huge new Guyana project faces charges of a disregard for safety from experts who claim the company has failed to adequately prepare for possible disaster, the Guardian and Floodlight have found.

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Exxon's 'cash cow'

Robert Bea, among the world's foremost forensic engineers and a leading expert on the 2010 BP oil spill in the Gulf of Mexico, worries that Exxon's operations appear to lack the appropriate preparation or planning to head off a deepwater blowout and major oil spill. "I am far from comfortable," Bea, co-director of the Marine Technology and Management Group Center for Risk Mitigation, said. "They should be too."

Vincent Adams suggests Exxon is cutting corners to increase profits. Exxon "has no respect for the people's health, safety and environment", he said. Adams, a petroleum and environmental engineer, worked for 30 years at the US Department of Energy before returning to his native Guyana in 2018 to become executive director of the Environmental Protection Agency.

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In 2015, Exxon became the first company to strike a significant oil find in Guyana. It then swiftly pushed through a contract roundly criticised as one-sided in its favor. Exxon's oil finds kept coming. It now estimates there are 9bn barrels of oil off the coast of Guyana.

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The spectre of Macondo

The greatest anxiety is over the risk of an event like the Macondo – the BP well that blew out in 2010, resulting in the deaths of 11 men aboard the Deepwater Horizon rig and the world's largest offshore drilling oil spill.

In 2017, Exxon submitted a 500-page environmental impact statement on Liza 1 to Guyana's Environmental Protection Agency, stating: "Unplanned events, such as a large oil spill, are considered unlikely to occur because of the extensive preventative measures employed."

Petroleum engineer Robert Bea said it was reminiscent of BP's original plans for the Macondo well, which stated, it is "unlikely that an accidental surface or subsurface oil spill would occur from the proposed activities". Asked if such contentions are "typical" in offshore drilling, he said: "absolutely not". Rather, he says, they reveal "ignorance of risk management fundamentals".

Bea worked for Shell Oil before becoming one of the world's premier safety and disaster investigators. He served as a principal investigator on the BP Deepwater Horizon disaster, the Piper Alpha offshore oil disaster that killed 167 men in the North Sea, the Exxon Valdez grounding and the crash of the Nasa Columbia space shuttle.

Bea reviewed more than 1,000 pages of Exxon submissions and government permits for Liza 1, to conduct an exclusive analysis for this reporting, and concluded that: "We could have a problem similar to what we had with BP before and after the Macondo disaster."

He said he found no evidence of the necessary planning and operations needed to "assess and manage the risks associated with high risk offshore exploration, production, and transportation operations". Exxon is instead offering superficial safety plans based on unsubstantiated claims of its capabilities in Guyana that fail to take account of the highly hazardous risks associated with its operations, he said.

There are "loose ends, assumptions, and premises that are not substantiated" in Exxon's plans, Bea said. "And the more of these threads that you tug at, the more concerned you become that what's being done here is superficial."

In particular, Bea is worried about a loss of well control, or blowout – which could cause a catastrophic oil spill. He finds that Exxon has not kept the risks of such events as low as "reasonably practicable", based on the documents he reviewed. Bea cites numerous problems with Exxon's plans.

If a blowout occurs in Guyana, Exxon says it would be contained within 21 to 30 days –an estimate Bea said is far too optimistic, unsubstantiated and improbable.

He points in particular to the inadequate provision of the tools needed to stop a blowout and oil spill, namely a capping stack and relief well.

Similar concerns raised by Bea to officials in Australia resulted in the government there strengthening its requirements, which ultimately led BP to withdraw its plans to drill in the

Australian Bight.

In addition Exxon's plans for a potential oil spill response rely on methods that were heavily criticized when deployed in previous disasters. Exxon intends to use Corexit 9500, a chemical dispersant banned in the UK and faulted for severe human and environmental harms when used in the Exxon Valdez and BP oil spills. Exxon also intends to burn oil on the ocean surface even though it is drilling in the Amazon-Orinoco Influence Zone, an area rich in marine biodiversity, with rare and threatened species on which local Indigenous and other fishers depend.

Even with these measures, Exxon estimates a spill could send oil throughout the Caribbean Sea, across Trinidad and Venezuela, and as far as Jamaica. Exxon is relying on Guyana's recently drafted national oil spill response plan; yet there remains a wide chasm between what's written on paper and the government's ability to implement it, argued former EPA chief Adams.

Adams said Guyana has insufficient equipment, personnel, expertise, funding and clear lines of responsibility to respond in a disaster. Adams also worries that the government will be forced to foot the bill if there is a disaster, because Exxon is placing liability for the project with a subsidiary

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"Guyana is wholly unprepared for a Macondo," said [Melinda] Janki, who formerly served as in-house legal counsel for oil giant BP and drafted many of Guyana's national environmental laws. The results of a blowout were catastrophic in the United States despite ample money, experience and infrastructure, she said, and "Guyana doesn't have any of that."

Exxon did not respond to the specific claims … but said it has adhered to Guyanese laws and instituted "robust compliance assurance systems that enable identification and timely reporting of operational issues with the Environmental Protection Agency and Ministry of Natural Resources" of Guyana. Guyana's government did not respond to requests for comment.

Adams said while Exxon would not deliberately cause an accident, "they're going to bring it to the line [and take] the chance that nothing is going to happen until something happens. That's what keeps me up at night."

https://www.theguardian.com/environment/2021/aug/17/exxon-oil-drilling-guyana-disaster-risk