Testimony Ends in Marathon Exxon Trial

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CONCORD, N.H. (AP) — Testimony ended Wednesday in the longest state trial in New Hampshire's history, and jurors will begin deliberating next week over whether Exxon Mobil Corp. should pay the state hundreds of millions of dollars to monitor and treat private wells and public drinking supplies contaminated by the gasoline additive MTBE.

Final arguments are scheduled for April 3.

Lawyers for the state in the products liability case — filed a decade ago — say ExxonMobil ignored advice from some of their own researchers that MTBE traveled farther and faster in groundwater and could contaminate much larger volumes of water than gasoline without an oxygenating additive.

Lawyers for the oil giant counter that MTBE did exactly what it was supposed to do — significantly reduced air pollution in compliance with the federal Clean Air Act.

With testimony over, the jurors who've been together since Jan. 14 bolted not for the doors but for their cameras. They wanted to mark the occasion with a group photograph.

Clearly with advance permission from Superior Court Judge Peter Fauver, jurors returned to their usual seats in the jury box after handing cameras and iPads to lawyers from both sides, who reveled in the role of paparazzi. They then asked the lawyers to swap places with them, and took a group shot of both legal teams.

Fauver cautioned jurors not to post their mementoes on the Internet.

The photo shoot was a rare moment of levity in a trial that at times turned contentious and had its share of mistrial motions.

The defense wrapped up its case Wednesday with engineer Thomas Austin equating the benefits of MTBE use in New Hampshire in 2006 to removing 166,000 vehicles from the state's roads.

A principle technical adviser with California-based Sierra Research, Austin said that taking MTBE out of gasoline would have resulted in more air pollution.

"Emissions would be higher, air quality would be worse and public health would suffer," he said, explaining that MTBE diluted the concentration of pollutants, such as sulfur and benzene.

On cross-examination, Austin acknowledged that he disagreed with several expert witnesses for the state who testified that the additive had no effect on air quality.

Lawyers for ExxonMobil stressed in opening remarks 11 weeks ago that the lawsuit is not a personal injury case and they would hear no witnesses claim physical injury.

The state rested Feb. 21, and the defense began presenting its case March 4.

The trial actually ended sooner than originally anticipated, partly because co-defendant Citgo settled with the state two days into the trial. Lawyers on both sides also significantly pared down the original list of 230 potential witnesses.

The case file was so voluminous that court officials had to improvise a whole new docketing system for it — making it one of only a handful of state cases to go fully electronic.

Chief clerk Bill McGraw noted before the start of the trial that the only other case that comes close to it in complexity is a school-funding challenge of the 1990s. "And that pales in comparison to this," McGraw said.

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