

Motiva to pay millions to victim's family

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Motiva Enterprises has agreed to pay \$36.4 million to the widow and family of a Pennsylvania man killed when a huge acid tank exploded and collapsed near Delaware City in 2001, officials confirmed Wednesday.

The payment settled a wrongful death lawsuit filed by Mary Davis and the estate of Jeffrey Davis of Fairless Hills, Pa. Davis died while working atop a leaking and corroded acid tank that caught fire July 17, 2001.

Thomas R. Kline, Mary Davis' attorney, said the evidence in the case left Motiva with little choice but to settle. The case had been scheduled for trial Sept. 22 in the U.S. District Court for the Eastern District of Pennsylvania in Philadelphia.

"First and foremost, the family now feels that they have real answers," Kline said. "In my personal view, it shows that there should be better regulation and there should be more responsibility. If we'd had either or both in this case, this death would have been prevented."

Motiva spokesman Spiros Mantzavinos confirmed the settlement amount Wednesday but declined to comment further. The company said in a prepared statement that officials recognize that "no amount of money can replace the life of Mr. Davis."

"We hope the settlement serves as an acknowledgement of our profound regret while providing the Davis family a financially secure future," the statement said.

Mary Davis, who could not be reached Wednesday, sued the refinery nine months after her husband's death. The accident spilled 1.1 million gallons of sulfuric acid and gasoline compounds and disrupted refinery operations for months. Davis' remains never were found, leaving the family only with part of the sole of a work boot for burial.

State and federal investigators said neglected safety warnings and chronic, unrepaired corrosion and leaks in a 415,000-gallon storage tank led to the explosion. The findings led to a new law governing above-ground storage tanks in Delaware, new requirements for companies to report on pollution releases, and the recent signing of a law toughening corporate penalties in criminal cases.

The Delaware refinery still faces a criminal grand jury investigation and other civil suits in connection with the accident, which injured eight workers. Settlement talks are under way in one

federal and state civil pollution case involving allegations with potential fines in excess of \$50 million.

On July 8, Motiva President and Chief Executive Officer John F. Boles pleaded no contest on the company's behalf to a state felony charge of criminally negligent homicide and six misdemeanor assault charges. Boles at the time acknowledged mistakes "that ultimately led to the death of Mr. Davis."

After Boles' courtroom remarks, Mary Davis in a letter to the judge said that the company should have faced the more serious charge of manslaughter, and urged a state judge to reject the \$296,000 penalty, which she described as a "sweetheart" plea bargain.

"The horrifying fire and explosion caused by a tank known to be emitting highly flammable hydrogen gas left him incinerated and destroyed. We were not even left with his body to bury," Davis said in the letter. "Motiva destroyed our hopes, our dreams and our future."

Delaware Trial Lawyers Association President Randall E. Robbins said he was unaware of any recent wrongful death case settlement in Delaware as high as the one reported Wednesday.

"Without a doubt, when you have a case of this nature and you see that kind of money being agreed to and paid, there have to be aggravating circumstances where the defendant did not want a jury of this community seeing what they had done and failed to do."

Court records show that company officials repeatedly sought to meet with the family in the months before the lawsuit was filed to discuss a "substantial settlement."

Attorneys for the family reviewed 40,000 documents, hired international industry and engineering experts and interviewed 39 witnesses while preparing for the case.

"The thought that a tank could have been overdue for inspection for a decade, that it could be known to be leaking and emitting dangerous emissions" while contractors worked on top of it "speaks volumes," Kline said.

Motiva, with refineries in Texas and Louisiana, can process up to 7.5 million gallons of crude oil daily at its Delaware City operation. The Delaware refinery is a joint venture of Royal Dutch Shell and Saudi Arabia's oil company, Saudi Aramco. In May, Royal Dutch Shell reported a 96 percent rise in first quarter earnings to \$3.9 billion worldwide.

A company that was once part of the joint venture that owned Motiva figured in one of the few recent cases to produce a comparable, publicly disclosed settlement. Equilon Enterprises was a minority partner in a pipeline company that last year agreed to pay \$75 million to the families of two boys killed in a Bellingham, Wash., pipeline explosion in 1999.

Motiva has experienced pollution problems since the 2001 accident. Earlier this year, the refinery spilled about 25,000 gallons of gasoline compounds and sulfuric acid. Investigators

recently traced the spill to temporary operating systems, broken equipment and bypassed safety systems.