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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 EXXON CORPORATION, EXXON SHIPPING)
 COMPANY, and EXXON PIPELINE COMPANY,)
 et al., in personam, and the T/V EXXON VALDEZ,)
 in rem,)
)
 Defendants.)
 _____)

No. 3:91-CV-0082 Civil (HRH)

**STATUS REPORT BY THE
UNITED STATES AND THE
STATE OF ALASKA**

The United States and the State of Alaska (the “Governments”) jointly file this Status Report regarding the Reopener provision of the Consent Decree (“Reopener”).¹

As the Governments have described in their previous status reports, the “Comprehensive Plan for Habitat Restoration” (“Plan”), submitted to Exxon pursuant to the Reopener in 2006, contemplated a multi-phase restoration project beginning with work designed to provide information aimed at refining the Governments’ plan for addressing the lingering oil in the subsurface of beaches in Prince William Sound and the Gulf of Alaska. Under the Plan, the Governments have developed a predictive model for identifying with greater precision the locations and the extent of lingering *Exxon Valdez* oil (2007-2010); identified the factors considered to be limiting the natural degradation of lingering oil (2007-2010); evaluated whether *in situ* treatment of lingering oil through bioremediation was feasible and investigated means for introducing oxygen and nutrients to the substrate of beaches with lingering oil (2009-2010); and conducted pilot tests of that bioremediation technique to ascertain whether it could effectively accelerate the natural processes of degradation and dispersal of lingering oil (2011 – present).

Final reports for all but the last of these projects have been published previously. A draft final report of the last of these projects was due to have been provided to the *Exxon Valdez* Oil Spill Trustee Council (“EVOSTC”) at the end of January. In late December of 2013, during the writing of that report, a review of the results led to the discovery of a procedural issue that affected one of the several analyses undertaken by the laboratory. Based on a discussion with the project leaders, we presently anticipate that their draft final report will be submitted to the EVOSTC by the end of this month (March 2014). The report will then be peer reviewed before

¹ A corresponding Status Report is being filed today in the State’s case against Exxon (3:91-cv-0083 (HRH)).

it is finalized and made publicly available – a process that we estimate will take a minimum of two months.

In addition, there have been significant developments in the Governments' studies of the effects of lingering oil on those species whose recovery from the *Exxon Valdez* Oil Spill (“EVOS”) was thought to have been delayed by their exposure to lingering oil. Those studies have focused on sea otters and harlequin ducks, both foragers of the substrate where *Exxon Valdez* oil lingers.

For harlequin ducks, the results of March 2013 sampling were published online in January 2014. (Esler, D. 2013. Long-term monitoring: lingering oil evaluating chronic exposure of harlequin ducks and sea otters to lingering *Exxon Valdez* oil in Western Prince William Sound, *Exxon Valdez* Oil Spill Trustee Council Restoration Project Final Report (Project 12120114-Q), Pacific Wildlife Foundation and Centre for Wildlife Ecology, Simon Fraser University, Delta, British Columbia, Canada; published on the EVOSTC website at: <http://evostc.state.ak.us/Store/FinalReports/2012-12120114Q-Final.pdf>.)

With respect to sea otters, reports on the data gathered during aerial surveys of otter population abundance in Western Prince William Sound and Knight Island conducted in 2011, 2012, and 2013 have been completed and published. (Bodkin, J.L., B.E. Ballachey, and G.G. Esslinger. 2012. Trends in sea otter population abundance in Western Prince William Sound: progress toward recovery following the 1989 *Exxon Valdez* oil spill, *Exxon Valdez* Oil Spill Restoration Project Final Report (Restoration Project 10100750-Amendment), U.S. Geological Survey, Alaska Science Center, Anchorage, Alaska), available on the EVOSTC website at: <http://evostc.state.ak.us/Store/FinalReports/2010-10100750A-Final.pdf>; Ballachey, B.E., Monson, D.H., Esslinger, G.G., Kloecker, K., Bodkin, J., Bowen, L., and Miles, A.K., 2014,

2013 update on sea otter studies to assess recovery from the 1989 *Exxon Valdez* oil spill, Prince William Sound, Alaska: U.S. Geological Survey Open-File Report 2014-1030, 40 p., <http://dx.doi.org/10.3133/ofr20141030>.)

The United States Geological Survey Open-File Report cited above also contains the reports from two other sea otter studies. The first of these concerns 2012 and 2013 surveys aimed at counting beachcast sea otter carcasses. The age-at-death information from the carcasses was analyzed to ascertain the age distributions of dead otters, which were used to determine survival rates by age class within the population. In the second of these summarized studies, pertaining to the effects of continuing oil exposure on long-term survival of sea otters, sixty sea otters were captured and sampled in Western Prince William Sound in July of 2012.

The histopathology studies of archived sea otter livers have also been completed and a report has been published. (Ballachey, B.E., D.H. Monson, K.A. Kloecker, G.G. Esslinger, F.C. Mohr, T.P. Lipscomb, M.J. Murray, and S. Howlin. 2014. Synthesis of nearshore recovery following the 1989 *Exxon Valdez* oil spill: Sea otter liver pathology and survival in Western Prince William Sound, 2001 – 2008, *Exxon Valdez* Oil Spill Restoration Project Final Report (Restoration Projects 070808 and 070808A), U.S. Geological Survey, Alaska Science Center, Anchorage, Alaska. <http://evostc.state.ak.us/Store/FinalReports/2007-070808-Final.pdf>.) This report also contains the result of the survival analysis of the sea otter populations in the spill area using data through 2008, in which thirty-nine variables, including age, gender, body condition, selected blood serum chemistry, and liver histopathology, were evaluated for relationships with the likelihood of survival.

Finally, the work to synthesize the results of the lingering oil modeling effort with data on the abundance and nearshore habitat use of sea otters and harlequin ducks as well as data

obtained on the measures of exposure and health of those and other nearshore vertebrate species believed to be affected by the presence of lingering oil has also been completed. This work, aimed at determining whether there are spatial linkages between the distribution of lingering oil within Prince William Sound and the distribution of those species, while taking into account the suitability of habitat for the affected species, has been compiled in a draft final report that was submitted to the EVOSTC last week. Once the results of this work have been peer reviewed, they will be published and made available to the public.

As the last of these scientific reports nears completion and public release, the Governments are reviewing the information from all of the aforementioned studies, both internally and with each other. They will also be consulting with counsel to discuss how to proceed vis-à-vis their Reopener claim, including contact with Exxon. We propose to file an update with the Court on October 15, 2014.

Dated: March 14, 2014

FOR THE UNITED STATES

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 14, 2014, a copy of the foregoing Status Report was served by the Court’s Electronic Case Management system upon all persons registered to receive filings in this matter, and a copy was also served via USPS to the following:

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