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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.¹

1. As the Governments described in their April 30, 2012 Status Report, Docket # 407, the Governments’ “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 needed to refine the Governments’ plan for addressing the lingering oil remaining in the subsurface of beaches in Prince William Sound and the Gulf of Alaska. The initial phases included (a) the development of a predictive model for identifying with greater precision the locations and the extent of lingering oil – a project which was completed in 2010; and (b) ascertaining whether bioremediation technologies could effectively accelerate the natural processes of degradation and dispersal of lingering oil – a project that is now coming to a close, as described below. The next phase in this process is evaluation, including environmental analysis, of potential remediation alternatives in a draft restoration implementation plan.

2. During the summer of 2012, additional work was done on the pilot study, begun in 2011 at four beaches in Prince William Sound, to test the feasibility of a bioremediation technique aimed at providing nutrients and oxygen to oiled subsurface sediments to accelerate biodegradation of oil. An interim report describing the results of the 2011 study indicated that the bioremediation method used achieved reductions in the concentration of polycyclic aromatic hydrocarbons (“PAH”) on the order of fifty percent (50%) at two of the four beaches and that subsurface injection of oxygen and nutrients is a feasible method of accelerating biodegradation of oil on a small spatial scale at some beaches. During the 2012 field season, researchers

¹ The Consent Decree between the United States, the State and Exxon was approved by this Court in both this case filed by the United States against Exxon and the State’s case against Exxon (3:91-cv-0083 (HRH)).

conducted work at two of the four beaches at which work was done in 2011 in an effort to determine the extent to which degradation can be achieved using this bioremediation technique and to further define the physical and geomorphological characteristics of beaches that might be amenable to treatment with this technique.

At one of two beaches where degradation was not observed in 2011, scientists changed their method of injection to take a second look at whether natural degradation there can in fact be enhanced with subsurface injection of oxygen and nutrients. At the second beach, where degradation did occur, they continued injection of oxygen and nutrients to ascertain whether degradation beyond the fifty percent level could be achieved and whether the degradation can be achieved farther seaward. In addition, twenty-three beaches were visited and evaluated, from an engineering perspective, to determine their suitability as candidates for bioremediation using subsurface injection of oxygen and nutrients. The final report of this work is due to the *Exxon Valdez* Oil Spill Trustee Council (“EVOSTC”) by April 15, 2013.

3. The Governments have also been continuing their evaluation of the effects of lingering oil on wildlife, including sea otters and harlequin ducks. Below is a summary of developments regarding the wildlife studies since the April 30, 2012 status report:

a. The final data analysis and final report from a project to examine the exposure of harlequin ducks to residual *Exxon Valdez* oil, based on sampling data through March 2011, was submitted to the EVOSTC at the end of September 2011. (Esler, D, 2011. Nearshore Synthesis: sea otters and sea ducks (amendment), *Exxon Valdez* Oil Spill Restoration Project Final Report (Project 11100808), Centre for Wildlife Ecology, Simon Fraser (to be published on the EVOSTC website following completion of scientific peer review at http://www.evostc.state.ak.us/Projects/ProjectInfo.cfm?project_id=2186).

b. Another set of aerial surveys of the sea otter population abundance in Western Prince William Sound and Knight Island, was conducted during July of 2012. The data and analysis from the aerial surveys conducted in June 2011 will be published on the EVOSTC website following peer review, which is underway.

c. Surveys aimed at counting beachcast sea otter carcasses occurred in April to May of 2012. The age-at-death information from the carcasses is now being analyzed to ascertain the age distributions of dead otters, which is used to determine survival rates by age class within the population.

d. Work on studies of the effects of oil exposure on long-term survival of sea otters continues. Sixty sea otters were captured and sampled in western Prince William Sound in July of 2012. Analyses of the blood samples of those otters are underway. These analyses are aimed at evaluating continuing exposure and health of sea otters. A report on this work is due to the EVOSTC in April of 2013. Peer review of the report will follow. In addition, histopathology studies of archived sea otter livers continues. Analysis of data from samples is underway.

4. Work is continuing on the effort to synthesize the results of the lingering oil modeling effort with data on the abundance and intertidal 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 that are still recovering from the *Exxon Valdez* Oil Spill. This work, now approximately fifty percent (50%) complete, is aimed at determining whether there are spatial linkages between the distribution of lingering oil within Prince William Sound and the distribution of those species, taking into account the suitability of habitat for the affected species. The final report of this work is due to the EVOSTC in mid-April of 2013.

5. Based on the information gained once the above-mentioned projects are complete, the Governments will assess the information and determine the next steps to make final decisions regarding whether, and what types of, actions are appropriate to restore the injured habitats. As identified in the Plan, the Governments will evaluate implementation of an effective treatment technology by taking into consideration the environmental benefit, likely costs, and public input. The Governments anticipate discussing with Exxon its interest in participating in those next steps and a possible resolution of the Governments' demand to Exxon under the Reopener.

6. The Governments propose to submit another status report to the Court on June 30, 2013.

Dated: September 28, 2012

FOR THE UNITED STATES

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 28, 2012, 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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