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ATTORNEYS FOR THE UNITED STATES

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 their claim under the Reopener for Unknown Injury provisions of the Agreement and Consent Decree (“Reopener Claim”).<sup>1</sup>

The “Comprehensive Plan for Habitat Restoration Projects Pursuant to Reopener for Unknown Injury” (“Restoration Plan” or “Plan”) that was submitted by the Governments to Exxon in 2006 was a multi-phase plan for addressing the lingering oil in the subsurface of beaches struck by *Exxon Valdez* oil. The Restoration Plan envisioned six phases: (1) locating the remaining lingering oil, using modeling and field sampling techniques; (2) identifying the factors that have slowed natural removal of the oil; (3) identifying and evaluating candidate bioremediation technologies and, as appropriate, alternative technologies such as tilling and removal; (4) pilot testing of candidate bioremediation technologies; (5) evaluating potential remediation alternatives in a draft restoration implementation plan; and (6) implementing the chosen remediation option(s). Exxon declined to fund or implement the Reopener Plan as presented. The federal and state natural resource trustees (the *Exxon Valdez* Oil Spill Trustee Council or “EVOSTC”) decided to implement the initial stages of the Plan, and the Governments elected to defer filing their potential Reopener Claim in court while that work proceeded.

The Governments’ most recent update reported that work had been undertaken on the first four steps in the Restoration Plan, but the report on the testing of the bioremediation technologies had not been completed. The draft final report of that work was submitted to the EVOSTC on September 30, 2014 (rather than the anticipated March 31, 2014) and is now undergoing peer review before it becomes publicly available. That work tested a bioremediation technique at four sites in Prince William Sound and evaluated the feasibility of utilizing that

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<sup>1</sup> A corresponding status report is being filed today in the State’s case against Exxon (3:91-cv-0083 (HRH)).

technique at a limited number of additional sites known or predicted to harbor lingering *Exxon Valdez* oil. In order to conclude work on the fourth step of the Restoration Plan, it will be necessary to apply what was learned from the pilot testing to all of the known and predicted oiled sites. The Governments anticipate that the EVOSTC will be presented with a proposal for doing so at its November 19, 2014 meeting. This additional work would evaluate the feasibility of employing potential remediation alternatives, notably bioremediation, tilling and removal, at all beaches where lingering oil has been found or is expected, using a prioritization scheme,<sup>2</sup> and refine the amount of the Governments' Reopener Claim by providing a more accurate cost estimate of implementation of the means recommended for addressing lingering oil on a site-specific basis.

The report submitted to the EVOSTC in March of this year regarding spatial linkages between the distribution of lingering oil within Prince William Sound and the distribution of species believed to have been affected by the presence of lingering oil, taking into account the suitability of habitat for the affected species, is still undergoing peer review at a scientific journal, but completion of the peer review process does not affect the timing of the work described above.

The Governments recognize that the individual steps of the Restoration Plan have taken longer than predicted, but they are committed to undertaking a process that will lead to the most appropriate decisions regarding restoration of habitat containing lingering *Exxon Valdez* oil and, concomitantly, the best means for resolving their Reopener Claim. The Governments are conferring internally and with each other about the scientific information as it develops and the

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<sup>2</sup> The Restoration Plan envisioned that the means for addressing lingering oil were likely to consist of a combination of bioremediation and physical reworking/removal technologies and that the areal extent of the contaminated sediments to be treated would be less than all oiled sites.

various means for resolving this matter, including discussions with Exxon, taking into account the Court's expectations outlined in the Order dated March 21, 2014.

We propose to file an update with the Court by June 30, 2015, or at such earlier date as the Governments have additional, significant information to report.

Dated: October 15, 2014

Respectfully submitted,

FOR THE UNITED STATES

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 15, 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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