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UNITED STATES AND THE STATE OF ALASKA SEEKING ADDITIONAL FUNDS FROM EXXONMOBIL FOR CONTINUING NATURAL RESOURCE DAMAGES CAUSED BY 1989 OIL SPILL

WASHINGTON, D.C. – In accordance with the “Reopener” provision of the 1991 civil settlement with the Exxon Corporation, the U.S. Department of Justice and the Alaska Department of Law today presented the company with a proposed plan to restore shorelines in Prince William Sound and the Gulf of Alaska that still contain oil from the 1989 *Exxon Valdez* oil spill. The State of Alaska and three federal agencies whose trust resources were injured by the spill—the U.S. Departments of Agriculture, Commerce, and the Interior—have estimated the project to cost approximately \$92 million over the course of several years. The additional funding is being sought under the “Reopener for Unknown Injury” provision of the 1991 civil settlement which required Exxon to pay \$900 million in damages at the time.

The need for this project arises from a series of studies undertaken since 2001 that document the presence of residual oil from the 1989 spill within the intertidal zone of beaches in the oil spill area. At the time of the settlement, it was not anticipated that this oil would remain toxic and continue to impact natural resources in the oil spill area. The proposed project includes identifying all locations with significant amounts of lingering oil and using advanced bioremediation techniques and other technologies to remove the larger patches. The governments are inviting ExxonMobil to work with them cooperatively to develop and implement this comprehensive project to remove the oil.

“By sending our plan in accordance with the Reopener provision, we are aggressively seeking to restore natural resource damages unforeseen at the time of the 1991 settlement,” said Sue Ellen Wooldridge, Assistant Attorney General for the Justice Department’s Environment and Natural Resources Division. “Our goal throughout this process has been to pursue all scientifically and legally appropriate means of restoration. Our proposed plan is grounded in the best and most current science available, while steadfastly adhering to the requirements of the consent decree.”

Alaska Attorney General David Marquez said, “The State of Alaska has been engaged in a thorough analysis of potential claims under the Reopener provision for the last seven years. In exercising the Reopener we have been bound by the terms of the consent decree and the

application of sound science. After extensive review it is clear that populations and habitat within the oil spill area have suffered substantial and unanticipated injuries that are attributable to the *Exxon Valdez* oil spill.” Attorney General Marquez added, “A couple of months ago we held a series of public meetings in oil spill area communities to talk to the public about the Reopener and ask for their ideas on unanticipated injuries and how to address them. We received many thoughtful responses. To the extent those ideas do not appear in the restoration plan presented to ExxonMobil today, it is my intention to be guided by this information in making decisions in my capacity as a trustee on the *Exxon Valdez* Oil Spill Trustee Council.”

“The historic 1991 settlement provided much-needed funding to Alaska and to the federal government for restoration, and we have made significant progress in that effort,” said Lynn Scarlett, Deputy Secretary of the Department of the Interior. “But we have also discovered additional injuries caused by the spill that were not apparent at the time the case was first settled, and these problems must be addressed. The Department of the Interior strongly supports today's efforts so that we can restore injured resources in Prince William Sound and the Gulf of Alaska.”

“Natural resources of Prince William Sound, located within the Chugach National Forest, sustained heavy impacts from the *Exxon Valdez* spill. An ongoing commitment to restore these injured lands and resources will greatly benefit the ecosystem and marine life they support,” said Mark Rey, Undersecretary of the Department of Agriculture. “Both Alaska residents and nonresidents use this area extensively for subsistence, recreation, sport hunting and fishing activities. Removal of lingering subsurface oil, which remains bioavailable and toxic seventeen years after the spill, is a necessary step in the effort to restore this environment.”

“NOAA is particularly concerned with the quantity and toxicity of the residual oil, its impact upon intertidal communities, and its significance for future spill response actions in sub-arctic environments,” said Jim Walpole, NOAA General Counsel.

The proposed project focuses on determining the locations, approximate amounts, and chemical states of all significant residual deposits of oil from the spill in the spill area, and upon seeking to accelerate the natural processes of degradation and dispersal of the lingering oil.

The governments are asserting that there is a substantial loss of habitat from relatively fresh oil that has persisted in the subsurface of certain intertidal areas since the spill. This loss manifests itself in two principal ways: (1) Predators that feed in the intertidal, primarily harlequin ducks and sea otters, show reduced survival rates in oiled versus unoiled areas or appear to be avoiding certain locations with relatively extensive lingering oil; (2) Subsistence users reasonably avoid harvesting in oiled areas (and in areas they believe may be oiled) because of concerns over contamination of shellfish or gear. The governments assert that the current science supports the position that the continuing bioavailability and toxicity of the lingering oil could not reasonably have been anticipated.

In further developing and implementing the restoration plan, the governments will continue to be committed to providing public review and allowing participation to ensure that the public is fully informed and that its concerns are taken into account.

On March 24, 1989, the *Exxon Valdez* oil tanker ran aground on Bligh Reef in Prince William Sound. The resulting spill of approximately 11 million gallons of crude oil ultimately contaminated nearly 1,750 kilometers of the Alaska shoreline with crude oil, including those of a national forest, three national parks, four national wildlife refuges, five state parks, four state critical habitat areas and a state game sanctuary.

On Oct. 8, 1991, the federal district court in Anchorage approved both a plea agreement that resolved criminal charges by the United States against Exxon Corporation and Exxon Shipping Company and a civil settlement that resolved the claims of the United States and the State of Alaska against various Exxon entities for past cleanup costs and natural resources damages. The plea agreement called for a \$150 million fine, \$125 million of which was remitted, and \$100 million in restitution payments that were divided equally between the federal and state governments. The civil settlement required Exxon to pay \$900 million over ten years. That money has been and continues to be used for both short-term and long-term restoration projects in Prince William Sound and the Gulf of Alaska. The settlement also included a Reopener clause stating that Exxon may be required to pay up to an additional \$100 million for unforeseen natural resource damages caused by the spill.

A copy of the proposed plan is available at <http://www.usdoj.gov/enrd/open.html>.

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